



LAWS DESIGNED

TO SILENCE:

THE GLOBAL CRACKDOWN ON
CIVIL SOCIETY ORGANIZATIONS

BRAVE

**AMNESTY
INTERNATIONAL**



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Berlin, Germany: Amnesty International demonstration against the crackdown on civil society space in Egypt. [2018]

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1. EXECUTIVE SUMMARY

Civil society organizations and human rights defenders who speak out against unjust laws and government practices, challenge public opinion or those in power, and demand justice, equality, dignity and freedom, are being increasingly targeted. Around the world, groups working to promote or defend human rights are smeared, stigmatized, put under surveillance, harassed, threatened, prosecuted on spurious charges, arbitrarily detained and physically attacked; some human rights defenders are even killed and forcibly disappeared simply for the work they do.

In this context, this report shows that an alarming global trend has surfaced over the last decade in which states are introducing and using laws to interfere with the right to freedom of association and to hamper the work of civil society organizations and individuals who participate in them. The pace is accelerating: in the last two years alone almost 40 pieces of legislation have been either put in place or are in the pipeline. Various provisions impose barriers at all stages of these organizations' existence, and allow the authorities to closely monitor them. This happens particularly at the point of registration, but also when they plan, conduct and report on their activities, when they seek and receive funds, and when they carry out public campaigning and advocacy. At least 50 countries have put in place such laws in recent years.

Those who criticize the authorities in those countries, or who express views which are at odds with dominant political, social or cultural opinions, are at special risk. Too often, they are forced to "tone down", self-censor, or scale back their activities, dedicate their limited resources to excessive and unnecessary bureaucratic requirements, and may be excluded from funding opportunities. In the worst cases, civil society organizations are shut down and individuals criminalized and jailed simply for organizing to defend human rights.

Restrictive legislation reflects the broader political and cultural trends in which toxic narratives demonize "the other" and breed blame, hatred and fear,¹ creating a fertile ground for the enactment of such laws; and justifying them in the interests of national security, identity and traditional values. In practice, they often silence critical and diverse views and opinions and inhibit the ability of organizations and individuals to scrutinize governments.

The phenomenon is evident in all regions. In some countries leading politicians and government officials are increasingly adopting a nationalist, anti-immigration and "anti-foreign" discourse to delegitimize opponents or scapegoat minorities. States are adopting similar legislation in their drive to silence independent and critical voices in civil society. Politicians are fuelling negative narratives to discredit civil society organizations or human rights defenders, for example those who defend refugees' and migrants' rights or who promote diversity.² The narratives are creeping into the public discourse and creating a hostile environment for those defending and promoting human rights.

1 Amnesty International, "*Politics of demonization*" breeding division and fear (News story, 22 February 2017)

2 In her latest report *Saving lives is not a crime*, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, focuses on "the criminalization and targeting of humanitarian services and actors arising from activities to fight terrorism and deter migration and from the outlawing or stigmatization of sexual and reproductive rights", 2018, <http://undocs.org/A/73/314>

The justifications for draconian restrictions are as diverse as the countries in which they are implemented. Such justifications include national security, concern about foreign interference in national affairs, the need to protect national identity, traditional values and morals, religious beliefs, economic development and other imperatives.

The practical obstacles posed by restrictive and arbitrary laws, and the climate of fear and suspicion surrounding civil society organizations and human rights defenders, discourages others from demanding human rights and makes it increasingly difficult to maintain an open and healthy space for civil society.

Change and progress often arise from the efforts of groups of individuals who come together to demand human rights. Their work is a vital check on those in power and silencing them has consequences for everyone's human rights. Without trade unions, there would be no workers' rights; without environmental organizations, we would not be concerned about climate change and environmental degradation; without organized and sustained campaigning, torture and the death penalty would remain prevalent; and without feminist, LGBTI, migrant, and indigenous rights groups, countless people would continue not to be heard and systematically oppressed.

The legislation dealt with in this report is contrary to international human rights law and standards. It is, in many cases, an attempt to make civil society organizations beholden to the state amid a wider erosion of civic space and a general crackdown on the rights to freedom of peaceful assembly, association and expression.

According to the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders, HRDs), "each State has the responsibility and duty to protect, promote and implement all human rights and fundamental freedoms" and "to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice".³ The Declaration also recognizes that everyone, individually or collectively, has a role to play in making human rights a reality, by campaigning and advocating for human rights, sharing information, holding those in power to account, and demanding justice, equality, dignity and freedom.

Human rights cannot be realized without a thriving, safe and open civil society space which is free from excessive state controls, interference, and from discrimination.⁴ It is time for governments and the international community to address this downward spiral.

Amnesty International ends the report by making recommendations to governments to ensure that the right to defend human rights, including crucially the right to association, is enjoyed by everyone without discrimination. The organization is calling for the explicit and public recognition by states of the legitimacy of civil society organizations and human rights defenders, as well as their work, and is urging all states to repeal all laws and regulations that place unnecessary burdens upon them.

METHODOLOGY

This report is the third in a series of publications documenting the global crackdown on those who defend and protect human rights.⁵ It is built upon Amnesty International's documentation of threats and attacks against human rights defenders, groups and other individuals, including attacks on their right to freedom of

3 Resolution adopted by the United Nations General Assembly A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on HRDs), Art. 2.1, 1999, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

4 A definition of "safe and enabling environment" can be found in the 2013 Report of the Special Rapporteur on the situation of human rights defenders Margaret Sekaggya (A/HRC/25/55), <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>

5 Previous reports include: *Amnesty International, Human rights defenders under threat – a shrinking space for civil society* (Index: ACT 30/6011/2017) and *Amnesty International, Deadly but preventable attacks: killings and enforced disappearances of those who defend human rights* (Index: ACT 30/7270/2017)

association. It also uses analysis from other organizations⁶ and academics⁷ studying recent trends in relation to civil society and fundamental freedoms. It features testimonies (gathered between September and October 2018) from human rights defenders from Australia, Azerbaijan, Belarus, China, Egypt, Hungary, Pakistan and Russia. Their testimonies highlight the detrimental impact of repressive legal provisions on civil society organizations' human rights activities which are symptomatic of a trend affecting all regions across the globe.

The report provides an annex detailing a list of 50 countries in every region of the world which use laws and/or are drafting legislation aimed at restricting the right to freedom of association. Note, however, that not all the countries in the annex are scrutinized in the report. The report covers events up until 31 December 2018.

WHY CIVIL SOCIETY ORGANIZATIONS ARE CRUCIAL TO THE REALIZATION OF HUMAN RIGHTS

Civil society refers to the sum of individuals, groups, organizations and institutions that express and work on behalf of a variety of interests and initiate various activities and debates in society in support of those interests. It includes journalists, academics, community-based groups, trade unions, charities, human rights organizations, collectives, think-tanks, religious groups, academic institutions and political parties. Commonly known as the “third sector”, it is separate from the state and businesses. Not all of this sector defends human rights: some may simply provide services; some protect the interests of specific groups; and some may even be involved in activities and discourse that deny human rights and promote a hateful agenda.⁸

This report focuses on those who defend or promote human rights individually or collectively and refers to these groups and organizations as civil society organizations; it also uses the terms “NGOs” (non-governmental organizations) and “associations” in this context.

Groups and individuals who promote or defend human rights play an essential role in the advancement of human rights. The ability to exercise the right to freedom of association is crucial in creating an environment where people can organize to protect and promote human rights.

The Declaration on human rights defenders gives special recognition to the importance of people working individually or collectively towards the realization of human rights and the right of all to form, join and participate in civil society organizations, associations or groups to promote or defend human rights as a fundamental pillar of the international human rights system. When the Declaration was adopted in 1998, it shifted “the understanding of the human rights project: from a task accomplished mainly through the international community and States to one that belongs to every person and group within society. The Declaration recognizes that the equal justice, equal opportunity and equal dignity without discrimination long sought and deserved by every person can be realized only by empowering individuals and groups to advocate, agitate and take action for human rights. State action, while necessary and required, is insufficient to fully realize the human rights enshrined in the Universal Declaration of Human Rights”.⁹

6 Carnegie Endowment for International Peace, CIVICUS, FIDH (International Federation for Human Rights), Human Rights Watch, ILGA (International lesbian, gay, bisexual, trans and intersex association), The International Center for Not-for-Profit Law, Open Society Justice Initiative, Outright International, Sheila McKechnie Foundation

7 Bakke, K.M., Mitchell, Perera, D., N.J., Smidt H. (2018), *Silencing Their Critics: How Effective Are Governments in Restricting Civil Society?*, working paper [unpublished]

8 Carnegie Endowment for International Peace, *The mobilization of conservative civil society*, 4 October 2018, https://carnegieendowment.org/files/Youngs_Conservative_Civil_Society_FINAL.pdf

9 UNGA, *Report of the Special Rapporteur on the situation of human rights defenders*, 23 July 2018, A/73/215 <https://undocs.org/en/A/73/215>

2. INTERNATIONAL LAW AND STANDARDS ON CIVIL SOCIETY AND THE RIGHT TO ASSOCIATION

Civil society organizations play an essential role in the promotion and protection of human rights; they are a tool enabling individuals to work towards the elimination of human rights violations and hold those responsible to account.¹⁰ Enshrined in all leading human rights instruments,¹¹ the right to freedom of association allows for individuals to form or join formal or informal groups to take collective action to pursue a common goal.

The Declaration on HRDs outlines particularly the rights of individuals to form, join and participate in civil society organizations, associations or groups to promote or defend human rights,¹² a key component of the right to association. It also articulates the importance that civil society organizations are able to freely exercise the rights to association and expression, including through activities such as seeking, obtaining and disseminating ideas and information; advocating for human rights; engaging in governance and the conduct of public affairs; accessing and communicating with international human rights bodies; and submitting proposals for policy and legislative reform at the local, national and international levels.¹³

To enable individuals to do this, states must provide an adequate legal framework for the establishment of groups and organizations and ensure an environment that enables them to carry out their work without undue interference by the state or third parties.

While the right to association is not absolute, international human rights law requires states to ensure that any restriction imposed on individuals' right to gather and organize must be adequately prescribed by law, in accordance with the principle of legality, and be necessary and proportionate to a legitimate aim. This means

10 Declaration on HRDs, preamble

11 See article 20 of the Universal Declaration of Human Rights (UDHR); article 22 of the International Covenant on Civil and Political Rights (ICCPR), <http://www.un.org/en/universal-declaration-human-rights/>; article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>; article 16 of the American Convention on Human Rights (ACHR), <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>; article 10 of the African Charter on Human and Peoples' Rights (ACHPR), <http://www.achpr.org/instruments/achpr/>; and article 11 of the European Convention on Human Rights (ECHR), https://www.echr.coe.int/Documents/Convention_ENG.pdf

12 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (hereinafter, Declaration on HRDs) 1998, Art. 5, adopted by General Assembly Resolution A/RES/53/144, Art 13

13 Declaration on HRDs, articles 6, 7, 8

that such measures must be established in terms that are sufficiently precise and clear to allow their consequences to be reasonably foreseeable by those affected by them.

To comply with these provisions, states must ensure that any interference by authorities genuinely pursue one of the limited reasons allowed for such restriction, which are listed in the International Covenant on Civil and Political Rights (ICCPR), namely national security, public safety or public order, public health or morals and the protection of the rights and freedoms of others (Article 22).¹⁴ Even when it is demonstrated that a measure regulating or interfering with the right to association pursues a legitimate aim, the measure must respond to a pressing social need and be proportionate in pursuit of its aim. Measures restricting the work of civil society organizations, including by imposing administrative burdens, must be as unobtrusive as possible, with due regard to the significance of the interests at stake.

An adequate legal framework to facilitate the right to association requires states to establish a procedure to recognize organizations as legal entities in a way which is understandable, non-discriminatory and which is either affordable or free of charge.¹⁵ The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has recommended states to implement a notification regime through which the legal personality of an association does not depend upon state approval. Rather, they should automatically acquire legal personality by notifying authorities of their creation.¹⁶ Associations that are not registered are equally protected under international human rights law and such organizations should not be subjected to criminal sanctions for carrying out peaceful activities.

The right of groups to seek, receive and utilize resources from national, foreign and international sources is an essential component of the right to association.¹⁷ The UN Human Rights Council has stressed the importance of safeguarding the capacity of civil society organizations to engage in fundraising activities, calling upon states not to criminalize or delegitimize activities in defence of human rights on account of the origin of funding.¹⁸ Similarly, the UN Human Rights Committee and the Special Rapporteur on the rights to freedom of peaceful assembly and of association have stressed the importance of safeguarding NGOs' capacity to engage in fundraising activities, and have argued that funding restrictions that impede the ability of associations to pursue their statutory activities constitute an interference with Article 22 of the ICCPR.¹⁹ Furthermore, Article 2 of the International Covenant on Economic, Social and Cultural Rights provides for an obligation on states to engage in "international assistance and co-operation, especially economic and technical" in achieving the full realization of the rights protected under the Covenant. Such assistance and co-operation include the financial support of civil society organizations engaged in activities to achieve the full realization of those rights.²⁰

States must also ensure that administrative requirements do not have the effect of limiting the exercise of the right to freedom of association, including by over-scrutinizing associations or by imposing onerous and bureaucratic reporting requirements. In particular, the UN Special Rapporteur has recognized that, while independent bodies have a legitimate reason to examine the associations' records to ensure transparency and accountability, states must ensure that this procedure is not arbitrary and that is respectful of the rights to non-discrimination and privacy, as it would otherwise put the independence of associations and the safety of their members at risk.²¹

14 See also article 16 of the ACHR, <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>; article 11 of the ECHR, https://www.echr.coe.int/Documents/Convention_ENG.pdf

15 Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, U.N. Doc. A/HRC/20/27, 21 May 2012, para.95, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

16 Ibid., para.58

17 Resolution adopted by the United Nations General Assembly A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Art. 2.1, 1999, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

18 Human Rights Council Resolution, 22/6, Protecting human rights defenders, UN Doc. A/HRC/Res/22/6, para. 9.b, http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/6

19 Human Rights Committee and Viktor Korneenko et al v. Belarus, (1274/2004) UN Doc CCPR/C/88/D/1274/2004, 2006, para 7.2, <http://hrlibrary.umn.edu/undocs/1274-2004.html>; Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, 2013, UN Doc. /A/HRC/23/39, para. 16, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf

20 Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, 2012, UN Doc. A/HRC/20/27, para. 69, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

21 Ibid, para. 65

3. OBSTACLES IN THE LIFE OF A CIVIL SOCIETY ORGANIZATION

Several countries are introducing or applying measures that are burdensome for those wanting to register and operate an NGO, particularly if they hold views critical of the authorities or if their activities are deemed undesirable. Barriers to registration are particularly widespread but additional requirements include the imposition of excessive bureaucratic requirements such as providing detailed and frequent activities reports. In addition, many states also allow for the authorities to subject organizations to close monitoring and surveillance.



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Activists take part in a stunt outside the Parliament in Hungary's capital, Budapest, to tell MPs that people working for a Hungary that is fair and safe for everyone need to be protected, not attacked or threatened. [2018]

3.1 REGISTRATION

In many countries, legislation and other regulations have introduced barriers to the registration of civil society organizations, such as the need for authorization to operate or to gain legal personality and drawn-out costly registration procedures, and a lack of clarity around these procedures.

The right to freely form associations is protected under international human rights law, regardless of whether an entity is formally registered or not.²² Some associations may choose to register with the authorities to gain legal personality, for example to access certain rights and fulfil needs like obtaining public funds, to sign contracts, for recruitment and to open bank accounts, but associations may decide not to register for different reasons.

Obtaining legal personality is crucial to the right to freedom of association. To enable this right, countries generally adopt a notification procedure, through which organizations simply notify the authorities of the creation of an organization, or an authorization regime, thereby requesting permission from the authorities for the organization to operate. The Special Rapporteur on the rights to freedom of peaceful assembly and of association has recommended a notification procedure as best practice because it ensures greater protection of the right to freedom of association and avoids the possibility of discretionary powers and arbitrary or discriminatory decisions that would contravene the right to association. Authorization regimes that require an association to apply to register and then await authorization have been found to lead to delays, the need to meet additional requirements, and to open the door to arbitrary decision-making by the authorities.²³

In practice, requirements, steps and the timing of the registration process is often complex and unclear, creating confusion in the process and leading to applications being rejected. In some cases, authorities deny registration based on unsound reasons or without any justification. Sometimes there are no effective remedies available to organizations to challenge a rejection before an impartial and independent court.

By imposing bureaucratic hurdles and complicating the registration process, these provisions can also become tools used to gather information for intelligence purposes, to discourage or disband organizations deemed undesirable, muzzle critical voices and exclude those who cannot afford the legal process and the registration fees.

In **Belarus**, NGOs are required to register with the Ministry of Justice and are subjected to strict state supervision and working for those NGOs whose registration request is rejected (often arbitrarily) is a criminal offence. The Law on Associations²⁴ gives the government ample room to arbitrarily deny registration to organizations, even for minor issues. Those acting on behalf of an unregistered organization can face criminal charges.²⁵ Consequently, more and more Belarusian organizations are registering abroad, or conducting some or all of their activities abroad for fear of prosecution.²⁶

In **Azerbaijan**,²⁷ NGOs must obtain authorization of the Ministry of Justice before registering and prove both their respect for Azerbaijan's "moral values" and that they are not involved in "political or religious propaganda". As NGOs are required to receive all funding via bank transfer (which facilitates state control of their financial movements), unregistered NGOs are unable to obtain funding because they have no legal personality which means they cannot open bank accounts.

22 Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, 2012, UN Doc. A/HRC/20/27, para. 56, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

23 Former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, *Legal personality and registration*, FOAA Online, <http://freeassembly.net/foaa-online/legal-personality-registration/>

24 Law on Public Associations of 1994 (amended in 2011), <https://www.legislationline.org/topics/country/42/topic/1>

25 On 15 December 2005, Article 193.1 was added to the Criminal Code, and any activity on behalf of an unregistered organization, including political parties and religious organizations, became a criminal offence punishable by a fine or imprisonment for up to two years; Amnesty International, *What is not permitted is prohibited. Silencing civil society in Belarus* (Index: EUR 49/002/2013)

26 Civicus Monitor, *Activists face tougher regulation and state surveillance*, 8 July 2016, <https://monitor.civicus.org/newsfeed/2016/07/08/be-updated/>

27 NGO Law of 2000 and its amendments of 2009 and 2013

In **Pakistan**, the Ministry of Interior rejected registration applications from 18 international NGOs, including ActionAid, without providing any reasons, and, in October 2018, ordered them to leave the country.²⁸

In **Afghanistan**, associations and NGOs are regulated by two different pieces of legislation.²⁹ NGOs must apply to the Ministry of Economy to be registered. For national NGOs, the registration fee is AFN10,000 (USD150) and for an international NGO it is USD1,000. The applications for registering a new NGO are then reviewed by two commissions for final approval. NGOs are required to submit biannual and annual reports. They can be deregistered if they fail to send such reports within six months of the due date.

Associations are required to register with the Ministry of Justice. Since 2013 first-time applicants have been required to pay a AFN10,000 (USD150) registration fee for a registration certificate which is valid for only three years. Renewal of the certificate carries a fee of AFN5,000 (USD75). The Law on Associations provides that associations may not carry out activities as an unregistered group, effectively making registration mandatory.

Cambodia³⁰ imposed in 2015 a mandatory registration process, onerous reporting obligations and vague grounds upon which the authorities can deny an organization's registration or deregister it. The undefined concept of "political neutrality" has served as a justification for preventing the registration or ordering the closure of NGOs and other associations.³¹ In September 2017, local organization Equitable Cambodia was ordered to suspend its activities for several weeks for alleged violations of the law, in particular for failing to submit bank statements to the Ministry of Interior within 30 days of registration, and to submit documentation of its activities and finances.³² It was allowed to reopen in February 2018.³³

In **Laos**, a 2017 decree³⁴ gives authorities sweeping powers, including to arbitrarily control and/or prohibit the formation of associations; broad powers to inspect, monitor and curtail the activities and finances of associations; power to close associations without the right of appeal; and to prosecute associations and individual members if they fail to comply with such provisions. It also includes measures to criminalize unregistered associations and prosecute their members.³⁵ As a result, groups that preferred to work without registration are finding it impossible to continue with their activities, and there has been a wider chilling effect deterring individuals from even publicly describing themselves as a human rights defender.

In **Malaysia**, forming associations is highly restricted. Even though the Societies Act dates back to 1966, it is still in use. The Act introduced vaguely worded and burdensome requirements for registration, which allow authorities to selectively inhibit the work of "unwelcome" associations. In recent years, several organizations have been either arbitrarily denied registration or declared unlawful under the Act. In 2014, two NGO coalitions, the Coalition of Malaysian NGOs in the UPR Process (COMANGO) and Negara-Ku, were declared unlawful by the Home Ministry for allegedly lacking official registration but continue to be allowed to operate. In the case of COMANGO the cited reason was for having several "non-Islamic" members.³⁶ Similarly, a

28 "Civil Society urges government to revisit its INGO registration policy framework", *Daily Times*, 10 October 2018, <https://dailytimes.com.pk/308541/civil-society-urges-government-to-revisit-its-ingo-registration-policy-framework/>; Thomson Reuters Foundation news, *Pakistan tells 18 international NGOs to leave - ActionAid*, 4 October 2018, <http://news.trust.org/item/20181004125318-duvhq/>

29 Law on Associations of 2013 – (amended in 2017) and Law on Non-governmental organizations of 2005. Domestic NGOs are defined simply as organizations established to pursue specific objectives. Associations are defined as social non-political and not-for-profit organization of a community, union, council, assembly, foundation, etc. in order to pursue professional, guild, and technical purposes

30 Law on Associations and NGOs of 2015

31 Amnesty International, *Cambodia: Immediately withdraw draft law on associations and non-governmental organizations (LANGO)* (Index ASA 23/2029/2015)

32 Amnesty International, *Cambodia: Ongoing crackdowns on the political opposition, civil society and independent media must be addressed by the Human Rights Council* (Index: ASA 23/7909/2018); "Land rights NGO suspended", *The Phnom Penh Post*, 29 September 2018, <https://www.phnompenhpost.com/national/land-rights-ngo-suspended>

33 "Equitable Cambodia allowed to reopen", *The Phnom Penh Post*, 26 February 2018, <https://www.phnompenhpost.com/national/equitable-cambodia-allowed-reopen>

34 Decree on Associations of 2017

35 Amnesty International, *Laos: Joint open letter on repeal of decree on associations* (Index: ASA 26/7608/2017)

36 FIDH (International Federation for Human Rights), *Malaysia: Coalition of Malaysian NGOs COMANGO declared an "unlawful organisation"*, 14 January 2014, <https://www.fidh.org/en/region/asia/malaysia/14468-malaysia-coalition-of-malaysian-ngos-comango-declared-an-unlawful>

coalition of over 80 Malaysian NGOs, Negara-Ku, was declared illegal by the former Home Minister as it was not officially registered.³⁷

In **Egypt**, failure to register an NGO is punishable by imprisonment and a fine according to Law 70 of 2017. The same article specifies that “establishing or operating a body that conducts activities outlined in that law as civil society activities under any legal form except those outlined in the law” is punishable by a minimum of one year and a maximum of five years in prison and a fine of at least 50,000 EGP (USD2,800) and a maximum of 1 million EGP (USD56,000).³⁸

In **Algeria**, under 2012 legislation,³⁹ anyone intending to form an association must obtain prior approval from the authorities. Applicants can appeal the decision. Since 2012, the authorities have failed to respond to many registration applications, leaving many human rights groups, including Amnesty International’s national office, in a legal limbo. Those whose registration application was rejected could appeal the decision through an administrative tribunal within three months. Others have simply had their registration applications refused. Any member of an association which is not registered or has been suspended or dissolved by the authorities and continues to operate can be punished by up to six months’ imprisonment and a heavy fine. In May 2013, Abdelkader Kherba, a member of the Algerian League for the Defence of Human Rights and the National Committee for the Defence of the Rights of the Unemployed, was given a two months’ suspended prison sentence and fined, under the legislation, for distributing leaflets on unemployment in 2011.⁴⁰ In February 2018, the authorities sealed the offices of two women’s rights NGOs, FARD (Femmes Algériennes Revendiquant leurs Droits) and AFEPEC (Association Féministe pour l’Épanouissement de la Personne et l’Exercice de la Citoyenneté), forcing their closure. The authorities disputed the legality of their registration in order to justify the shutdown. Both organizations, which had operated since the 1990s, submitted a new registration request. In May, FARD obtained a decision in favour of its registration after filing a lawsuit before an administrative court that has yet to take effect. AFEPEC has yet to receive a response.⁴¹

In **Bahrain**, legislation⁴² has, for decades, required organizations to register with authorities while the government is empowered, under vaguely worded provisions, to refuse registration applications, to suspend or dissolve organizations and to monitor and intervene in associations’ affairs. The government even have authority to assign associations temporary managers or board directors. Since 2004, Bahraini authorities have rejected registration requests from organizations such as the Bahrain Youth Society for Human Rights and the elections-monitoring group Nazaha, and arbitrarily dissolved the Bahrain Center for Human Rights. Establishment or management of an unlicensed association with an international character is punishable by criminal prosecution.⁴³ Consequently, most human rights organizations in Bahrain either risk working without a licence or register abroad.

The **Iranian** authorities use provisions in the Islamic Penal Code to criminalize the activities of human rights defenders and civil society organizations. This has resulted not only in stopping independent human rights organizations from being able to register and operate, but also in the criminalization of even informal networks or campaigns, such as Step by Step to Stop the Death Penalty (also known by its Persian acronym, Legam).⁴⁴ Consequently, individuals like prominent lawyer Nasrin Sotoudeh and human rights defender Narges Mohammadi have been convicted and sentenced to lengthy prison terms in connection with their involvement with Legam and other similar loose networks and campaigns. Penal Code articles frequently used to criminalize the activities of human rights defenders and civil society organizations include: “gathering and colluding to

37 International Center for Non-Profit Law, Malaysia, last updated on 16 august 2018, <http://www.icnl.org/research/monitor/malaysia.html>

38 Under Article 87(e) of the Associations Law 70/2017

39 Law No. 12-06 on Associations; Amnesty International, *Algeria: Submission to the United Nations Human Rights Committee*, (Index: MDE 28/8455/2018)

40 Amnesty International, *Algeria: New law on associations used to stifle civil society* (Press release, 7 May 2013)

41 Amnesty International, *Algeria: Disturbing clampdown against civil society as two women’s NGOs forced to close* (News service, 2 March 2018)

42 Law on Associations, Social and Cultural Clubs, Private Bodies Working in the Field of Youth and Sports, and Private Institutions of 1989

43 Art. 163 of the Penal Code

44 See Amnesty International, *Caught in a web of repression: Iran’s human rights defenders under attack* (Index: MDE 13/6446/2017)

commit crimes against national security” (Article 610), “forming a group composed of more than two people with the purpose of disrupting national security” (Article 498) and “membership of a group with the purpose of disrupting national security” (Article 499). The definitions of these crimes contravene the principle of legality as they are overly broad and vague, allowing the authorities to apply them arbitrarily.

In **Equatorial Guinea**, the law⁴⁵ lists the areas on which civil society organizations can work, but “human rights” is not included. Since 2006, there has been an informal agreement which allows certain human rights organizations to operate, although their situations are precarious and only those close to the government can exist in practice. In the past, NGOs such as the Bar Association and the Press Association have been banned without justification.⁴⁶

In **Cuba**, so-called illicit associations, meetings or demonstrations by groups not legally registered are prohibited.⁴⁷ Under the Law on Associations,⁴⁸ founders of an organization should officially request registration of their organization through the Ministry of Justice. In practice, the Ministry routinely denies this registration and/or fails to respond to applications. This effectively prohibits the legitimate work of human rights organizations – and the work of independent human rights lawyers – and puts independent civil society in a legal limbo that exposes them to the risk of harassment and arbitrary detention.

For example, Cubalex, a group of independent human rights lawyers, was unable to register for years. In September 2016, the authorities searched their office without a warrant, confiscated laptops and documents, and gave notice that they were under investigation for tax evasion with potentially criminal consequences. Cubalex’s president was summoned by the Prosecutor General in May 2017 and informed that members of the organization would be accused of breaking the law for receiving financial support for the provision of legal assistance and for falsifying documents. The organization had been receiving funding from a US institution to provide legal assistance and human rights monitoring. Human rights defenders who receive foreign funding, particularly from the US, are stigmatized because of the perception fostered by the authorities that anyone who publicly disagrees with the government is a US government agent.⁴⁹

Several more countries have new pieces of legislation in the pipeline that, if passed, would introduce barriers to the registration of civil society organizations.

For example, in the **Democratic Republic of the Congo**, the Draft Bill on Non-Profit Organizations aims to strengthen administrative controls over NGOs through burdensome registration procedures and fees and to establish strict conditions on external funding and reporting.⁵⁰

In **Guatemala**, Bill 5257 would increase requirements and checks on civil society organizations. Those receiving resources from the state would be required to register with multiple institutions, including the Ministry of Interior (Ministerio de Gobernación), the Secretariat for Planning and Programming (SEGEPLAN), the Superintendence of Tax Administration (SAT), the General Comptroller’s Office (CGC) and in some cases the Ministry of Foreign Affairs, while registration would be immediately cancelled if the NGO uses foreign funding “to alter the public order”. This could even refer to organizing a peaceful demonstration. In addition, NGOs would have an obligation to report, within 30 days, about any funds received from abroad and to give details of the amount, origin and purpose of such funding. Given that many human rights NGOs depend on international funding, this is regarded as a measure to control international cooperation for the justice and

45 General Law 11/1992 on associations of 1992 and Law 1/1999 on nongovernmental organizations of 1999

46 UN Economic and Social Council, Civil and political rights, including the question of freedom of expression, Report submitted by Mr. Ambeyi Ligabo, Special Rapporteur on the right to freedom of opinion and expression, Mission to Equatorial Guinea, E/CN.4/2003/67/Add.2, 2003, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G03/100/35/PDF/G0310035.pdf?OpenElement>

47 Article 208-209 of the Cuban Penal Code

48 Law 54: Law on Associations of 1985

49 Amnesty international, “Your mind is in prison”. Cuba’s web of control over free expression and its chilling effect on everyday life (Index: AMR 25/7299/2017)

50 United Nations Human Rights, Office of the High Commissioner, *Democratic Republic of Congo: UN experts urge review of draft NGO bill*, 4 June 2018, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23170&LangID=E>

human rights sector and hamper the rights to freedom of expression and association.⁵¹ The proposal is due its third reading in Parliament at the time of writing.

3.2 EXCESSIVE BURDENS, ARBITRARY INTERFERENCE AND POWER TO DISSOLVE

"I was arrested in August in connection with activism and demonstrations carried out with the Human Rights Club. This created an awful atmosphere: those not arrested or investigated had to close their organizations or stop their projects. Many left Azerbaijan and work abroad."

Rasul Jafarov of the Human Rights Club in Azerbaijan on legislative amendments which have severely curtailed the work of civil society organizations.

As illustrated above, the imposition of strict registration requirements often goes hand in hand with other complicated and onerous requirements at all stages of the life of an association, including the requirement for frequent and detailed reporting on activities and the organization's finances. Tax legislation is also used in some countries to control civil society organizations as well as to punish them. Failure to comply with such regulations may lead to de-registration, suspension of licences and activities, and prosecution. Requirements and provisions are often vaguely worded, allowing for a level of arbitrariness and discretion that can give authorities a free hand to target certain organizations. As a result, civil society organizations often work in an environment where they are closely monitored and even spied on.⁵² Thus many organizations self-censor or divert substantial energies and resources to avoid reprisals.

All too often, administrative requirements for organizations contravene the right to privacy by imposing a highly intrusive scrutiny of all their members, functions and funds prior to registration or for renewing their registration. In some countries, individuals applying for a registration licence are required to submit personal information that is not relevant for the purpose of the registration process or are required to reveal the identity of its funders and supporters. Other countries allow wide powers to the authorities to intervene in critical decisions of an organization, including by requiring the presence of a government representative at board meetings or interfering in the determination of the association's statutes, structure and activities.

In **Azerbaijan**, legislative amendments⁵³ introduced further registration and reporting requirements and rules on receiving and using grants, along with new penalties for those violating these provisions.⁵⁴ Following these changes, a large-scale criminal prosecution of local and international NGOs was launched, led by the Prosecutor Office on Grave Crimes. As a result, dozens of local and foreign NGOs and their staff were subjected to tax inspections, bank account freezes, and closure. Among them were the Democracy and Human Rights Resource Center, the Azerbaijan Lawyers Association and the Media Rights Institute. NGO staff were interro-

51 The International Center for Not-for-Profit Law, *Civic Freedom Monitor: Guatemala*, last updated on 12 July 2018, <http://www.icnl.org/research/monitor/Guatemala.html>; Civicus Monitor, *Civil society reports staggering number of attacks against activists in 2017, with 52 HRDs killed*, 29 March 2018, <https://monitor.civicus.org/newsfeed/2018/03/29/civil-society-reports-staggering-number-attacks-against-activists-2017-53-hrds-killed/>

52 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, report 2018, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/247/10/PDF/G1824710.pdf?OpenElement> and report 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/080/50/PDF/G1808050.pdf?OpenElement>

53 Changes were made to the Law on Grants, the Law on State Registration of Legal Entities and the State Registry and the Code of Administrative Offences

54 Amendments were made in 2009, 2013 and 2014. See the International Center for Not-for-Profit Law, *Civic Freedom Monitor: Azerbaijan*, last updated on 21 March 2018, <http://www.icnl.org/research/monitor/azerbaijan.html>; see also Human Rights Club, *Joint package of proposals of representatives of Azerbaijan's civil society for improvement of legislation regulating the activities of civil society*, <https://www.humanrightclub.net/wp-content/uploads/2017/09/Recommendations-of-civil-society-on-NGOs.pdf>

gated, given travel bans and detained, including staff of the Human Rights Club, and the Election Monitoring and Democracy Studies Center (EMDS).⁵⁵

RASUL JAFAROV – HUMAN RIGHTS CLUB (AZERBAIJAN) - NGO FOCUSING ON CIVIL AND POLITICAL RIGHTS

“There has been a systematic... effort by the government to crack down on civil society organizations in recent years. Since the amendments... the operations of non-registered NGOs became illegal. In April 2014, a criminal case was opened as the prosecutor claimed to have suspicions about NGOs activities and international donors. In July, they started arresting people, and I was arrested in August in connection with activism and demonstrations carried out with the Human Rights Club. This created an awful atmosphere: those not arrested or investigated had to close their organizations or stop their projects. Many left Azerbaijan and work abroad.

“Some organizations can continue to operate normally... But for independent organizations, it is just not possible – you have to accept the government’s conditions or work underground... we cannot do public activities and reach out to people through events, conferences, media work, gatherings. Permission from the government is required for everything, even to sign a contract with donor organizations based abroad. It is no longer possible to have any guarantees for the future in terms of contracts, grants or foreign funding, and no one can predict whether they would be criminally convicted or not.

“I was released from prison in 2016. I did not lose my motivation, it made me want to carry on with my fight even more. But we had to do some technical adjustments, we became more careful, particularly with our public statements. What the government did is unwise: NGOs will continue to work but are forced underground or abroad. It’s in the interest of the state for these organizations to remain in the public arena. Right now, Azerbaijan is in negotiations with the EU to sign a bilateral agreement. The EU should take this opportunity to put pressure on our government to protect independent civil society organizations”.⁵⁶

In **Kazakhstan**, after legislative amendments were passed in 2015,⁵⁷ NGOs are obliged to provide the government with extensive information about their staff, assets, funders and activities. Failure to comply can result in fines and temporary suspension of activities. In 2017, a court in the city of Almaty found the International Legal Initiative, a human rights NGO, guilty of failing to pay taxes after a tax inspection conducted six months earlier. Its members believe that the move was designed to intimidate and harass them for their work, specifically for providing legal assistance to peaceful protesters detained in May 2016.⁵⁸

In **Pakistan**, a 2015 policy⁵⁹ introduced various administrative, financial and other restrictions on NGOs. Among other things, the policy requires pre-approval for work plans and the disclosure of project budgets and prohibits engagement in vaguely defined “political activities” or research conducted outside approved terms of reference. Breaching these conditions can result in foreign staff having their visas cancelled or the organization being deregistered.⁶⁰ There is a risk that the policy could be used to suppress government criticism and restrict the right to freedom of expression.⁶¹ NGOs, particularly those engaged in human rights advocacy, complain that intelligence officials frequently visit their offices seeking information on staff and

55 Caucasus Civil Initiatives Center, *Shrinking Space for Civil Society in Azerbaijan*, 13 July 2016, [56 Interview with Rasul Jafarov, October 2018](http://www.caucasusinitiative.org/en/researchs/2; Amnesty International, <i>Azerbaijan: Activists targeted by “government-sponsored” cyber-attack</i> (News service, 10 March 2017</p></div><div data-bbox=)

57 Amendment to Law on Non-Profit Organisations of 2015

58 Amnesty International, *Kazakhstan: Persecution of NGO for “failure to pay taxes” as authorities again claim down on dissent* (News service, 10 May 2017)

59 Policy for Regulation of International Non-Governmental Organizations of 2015

60 The International Center for Not-for-Profit-Law, *Comments on the Policy for regulation of international non-governmental organizations (INGOs) in Pakistan, 22 December 2015* http://www.icnl.org/programs/asia/ICNL_Analysis_Pakistan%20INGO%20Policy.pdf

61 Amnesty International, *Pakistan: Government must ensure the protection of human rights defenders* (Index: ASA 33/3045/2015)

organizational activities. In December 2016, the authorities ordered South Asia Partnership Pakistan to close for allegedly submitting a “critical shadow report” to the UN Human Rights Council.⁶² Further abuses against members of human rights organizations submitting information to UN mechanisms and organs have also been documented by the UN Assistant Secretary-General for Human Rights.⁶³

A DEFENDER WORKING FOR AN ORGANIZATION PROMOTING EQUITY AND EQUALITY THROUGH POLICY ADVOCACY IN PAKISTAN

“Pakistan seems to be part of a global trend with emphasis on “nationalism”, based on distinctions such as race and religion, amidst populist politics. This is why the current wave of politics is in conflict with internationalism and multilateral co-operation. International development organizations are treated with suspicion. A policy introduced in 2015 was arbitrarily drafted and applied. Many Pakistani organizations have been denied new registration or renewal of their registration and therefore their funding was restricted. My organization was recently stopped from holding seminars and carrying out activities in certain districts. Often, authorities find ways to tell conferences’ organizers not to invite members of my organization. NGOs are told not to mention some vocabulary such as extremism, peace-building, conflict resolution. My organization is observing self-censorship, to avoid explicitly addressing these topics. The newspapers refuse publishing articles that have critical undertones... Freedom of expression is stifled in 2018 to a large extent”.⁶⁴

In Egypt, Law 70 of 2017⁶⁵ maintained restrictions and regulations for international civil society organizations, as it establishes undue barriers on organizations to register since the authorities are able to reject the registration of NGOs on vague grounds. The law also enables authorities to dissolve NGOs and subject their staff to criminal prosecution under vaguely worded infringements like “harming national unity and disturbing public order”.⁶⁶ The UN High Commissioner for Human Rights noted that “the legislation places such tight restrictions on civil society that it effectively hands administration of NGOs to the Government. The crucial function of these NGOs – to hold the State accountable for its human rights obligations – has been severely hampered already through asset freezes, travel bans, smear campaigns and prosecutions. This new law further tightens the noose”.⁶⁷

AIDA SEIF AL-DAWLA, EL NADEEM CENTRE FOR REHABILITATION OF VICTIMS OF VIOLENCE AND TORTURE (EGYPT)

“Law 70 is being applied with no executive regulations, and its application is subject to the discretion of several security authorities. Hundreds of associations have been closed down and their assets confiscated under the claim of being affiliated to the Muslim Brotherhood without any evidence. The crackdown on NGOs, foremost human rights organizations, involved both non-registered and registered organizations such as Nazra for Feminist Studies and the Center for Egyptian Women’s Legal Assistance, both of which had their assets frozen, their founders put on travel

62 Amnesty International, *Pakistan: Widespread human rights violations continue* (Index: ASA 33/6513/2017)

63 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/080/50/PDF/G1808050.pdf?OpenElement>

64 Interview with defender, October 2018. For security reasons, the individual concerned requested that their real names not be used.

65 Law 70 on Associations and Other Foundations Working in the Field of Civil Work. In November 2018, Egyptian President Abdel Fattah el-Sisi called for amending the law and the Egyptian government have launched a process to amend the law, see: Amnesty International, *Egypt: Repeal draconian NGO law following President’s calls for review* (News service, 15 November 2018)

66 Amnesty International, *Signing new NGO bill would be a “death warrant” for Egyptian rights groups* (Index: MDE 12/5171/2016)

67 UN Human Rights Office of the High Commissioner for Human Rights, *Repressive NGO law deeply damaging for human rights in Egypt*, 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21678&LangID=E>

bans and interrogated by a magistrate during “Case 173” (an ongoing prosecution of numerous national and international organizations for having received foreign funding). Nazra was also accused of tax evasion although registered NGOs are exempt from taxation. They, us and many other human rights organizations are under investigation and awaiting the trial in the case, which... can conclude with penalties amounting to life sentences. El Nadeem’s clinic has been closed under the claim that we are doing activities for which we are not registered with the Ministry of Health. Several of our younger staff have left the organization or the country altogether for fear of persecution. We undertake our rehabilitation activities in alternative places. We no longer publish testimonies of our clients fearing for their safety. The office is under surveillance by street vendors in front of the building”.⁶⁸

MOHAMED AL-TAHER, ASSOCIATION FOR FREEDOM OF THOUGHT AND EXPRESSION (AFTE) (EGYPT)

“So far, Law 70 has not directly affected AFTE’s work, since we are working as a law firm so are subject to other regulations. However, we see that independent civil society organizations in Egypt are harassed, antagonized and under constant pressure by the state to reduce their activities, close down or transfer abroad. All Egyptian human rights organizations established as associations are unable to carry out their activities due to obstacles they face in accessing foreign funding and the interference of the security forces.

In our case, we have taken some measures that enable us to continue our work, for instance periodic reviews of all documents and contracts to ensure we fully comply with all legal requirements... we have decided to give up on some of our activities as we could not guarantee the safety of its target groups”.⁶⁹

In **Burundi**, two laws adopted in 2017⁷⁰ introduced new tight oversight measures and controls on national and international NGOs. National NGOs must receive ministerial approval for all their activities or face sanctions which could include closure of their offices and suspension of activities. National NGOs are required to renew their registration biannually and there is a ban on the formation of NGO coalitions to organizations working in the same sector, with the exclusion of religious groups and trade unions. A group of UN human rights experts warned about “the obstructive, restrictive and stigmatizing effect of recent legislation on NGOs, in a context of growing repression of human rights defenders”,⁷¹ which has continued since the 2015 failed coup in Burundi.⁷² In October 2018, the government temporarily suspended all international NGOs, except for those running schools and hospitals. The Minister of Interior said international NGOs had up to three months to present four documents, including cooperation agreements with their line ministries and a plan for how they would implement ethnic quotas in their workforce, or be deregistered.⁷³ Many have been reopened since.

In **Equatorial Guinea**, legislation presents NGOs with serious administrative burdens, including the obligation to inform the authorities every time they receive income from abroad and to receive ministerial authorization to accept donations over CFA 50,000 (USD100). NGOs must also present formal reports every three months

68 Interview with Aida Seif al-Dawla, September 2018

69 Interview with Mohamed al-TaHER, September 2018

70 Amnesty International, *Burundi: Further crackdown on civil society unacceptable* (Index: AFR 16/5678/2017)

71 Maina Kiai, Special Rapporteur on freedom of peaceful assembly and of association; Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders; Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Ms. Agnès Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Working Group on Enforced or Involuntary Disappearances; UN Human Rights Office of the High Commissioner for Human Rights, *Burundi: UN experts raise alarm at growing repression of NGOs and human rights defenders*, 6 February 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21145>

72 Amnesty International, *Burundi: Rapid descent into a human rights crisis* (Index: AFR 16/7182/2017)

73 Amnesty International, *Burundi: Suspension of NFOs will throw vital services into disarray* (News story, 2 October 2018)

on the progress of projects and operations for the Minister of Interior's close supervision and be authorized by the government to operate. The government has the power to grant or revoke permissions. The law does not set a time limit for authorities to issue such authorization. Some organizations have been waiting over 10 years to obtain registration without receiving any response to their applications from the relevant authorities. Many must operate outside the legal framework, making them particularly vulnerable to closure.⁷⁴

In **Sierra Leone**, revisions to the NGO Policy Regulations in 2017 imposed stricter requirements for NGOs and community-based organizations. The regulations require organizations to align their activities with the government's development policy; renew their registration every year; obtain project-level approval from the Ministry of Finance and Economic Development (MOFED) and the relevant sector ministry; and disclose details of all funds committed by donors for project implementation to sector ministries and MOFED. The law also grants MOFED the power to scrutinize organizations' financial information and operations.⁷⁵

In **Mauritania**, under the current legal framework on associations,⁷⁶ scores of organizations working for the promotion and defence of human rights have been denied the authorization to operate. These associations include organizations such as the youth and pro-democracy association Kavana (Enough), the anti-slavery movement Initiative pour la Résurgence du Mouvement Abolitionniste (Initiative for the Resurgence of the Abolitionist Movement, IRA) and the association of relatives of victims of extrajudicial killings, Collectif des Veuves de Mauritanie (Widows' Collective of Mauritania). The current legislation is arbitrary and opaque, enabling authorities to target groups who express dissent, including human rights groups campaigning to end slavery and discrimination. In addition, prior authorization has to be granted by the Ministry of Interior before being allowed to operate. While unauthorized associations are often tolerated, their leadership, members and participants to their activities live with the threat of being prosecuted because of their unlawful status, or not being able to access donor funding. Dozens of human rights defenders have been arbitrarily detained on the grounds that they are members of unauthorized associations.⁷⁷

In the **UK**, the 2014 Lobbying Act⁷⁸ puts limits on civil society for campaigning in the run-up to election periods. The Act requires organizations that spend more than GBP20,000 (USD25,666) in England or GBP10,000 (USD12,833) in the rest of the UK on "regulated campaign activities" in the year before an election to register with the Electoral Commission and report on their campaigning spending. The Lobbying Act has been widely criticized by civil society leaders for its impact on the ability of organizations to operate and for being "a confusing and burdensome piece of legislation that weakens our democracy, rather than strengthens it".⁷⁹ Many organizations have self-censored their legitimate campaigning activities, rather than go through the onerous process of registering with the Electoral Commission.⁸⁰ For instance, some organizations decided to refrain from expressing views on issues which were high on the political agenda, such as health care, prior to the 2017 general election.⁸¹

According to research by the Sheila McKechnie Foundation, organizations in the UK have been affected by the Lobbying Act in many ways: people's voices go missing from the political debate; it reduces coalition activity and their ability to support local democratic engagement; it affects their agility and responsiveness;

74 See Amnesty International, *Equatorial Guinea: Free Human Rights Defenders* (News service, 21 April 2017)

75 The International Center for Non-Profit Law, Civic Freedom Monitor: *Sierra Leone*, last updated on 3 October 2018 <http://www.icnl.org/research/monitor/sierraleone.html>

76 Law No. 64.098 of 1964 on associations, Law No. 73.007 of 1973 and Law No. 73.157 of 2 July 1973. In 2015, the Council of Ministers approved, without public consultation, the proposal for a new law on associations which would replace the 1964 law and further undermine associations' ability to undertake their work. In June 2017, the Minister of Justice confirmed to the Amnesty International delegation that the bill was still under review at Parliament and could be adopted at any time. See: Amnesty International, *Mauritania: New law compromises right to freedom of association* (News service, 2 June 2016)

77 Amnesty International, *Mauritania: "A sword hanging over our heads": The repression of activists speaking out against discrimination and slavery in Mauritania* (Index: AFR 38/7812/2018)

78 The full name of the law is Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act

79 Bond, *Letter to MP Tracey Crouch (Parliamentary Under Secretary of State for Sport and Civil Society) on enhancing civil society participation in the democratic process*, 29 August 2017, https://www.bond.org.uk/sites/default/files/29_08_2017letter_to_tracey_crouch.pdf

80 Campaign Collective, *Freedom to campaign. A handy guide to what you CAN do under the Lobbying Act*, <https://campaigncollective.org/wp-content/uploads/2018/01/FREEDOM-TO-CAMPAIGN-GUIDE-FINAL.pdf>

81 Civicus Monitor, *Civic freedoms under threat from new laws in UK*, <https://monitor.civicus.org/newsfeed/2018/01/08/civic-freedoms-threatened-laws-uk/>

and it discourages a proportionate approach to risk management. Those who wish to avoid uncertainty, or the extra costs of registration, are forced to avoid any activity which could potentially be challenged.⁸²

During the 2015 general election campaign, Greenpeace UK campaigned for sustainable fishing policies to be included in the parties' manifestos and promoted an anti-fracking election pledge that was signed by MPs of all political allegiances. At the same time, the organization refused to register with the Electoral Commission in protest at the Lobbying Act which they believed limited their right to freedom of expression. It was later fined GBP30,000 (USD38,489).⁸³

Countries such as **Bolivia**,⁸⁴ **Chad**,⁸⁵ **Indonesia**,⁸⁶ **Laos**⁸⁷ and **Uganda**⁸⁸ have passed similar laws introducing unnecessary and onerous requirements for civil society organizations and granting sweeping powers to state authorities.

Between 2015 and 2018, several countries in Eastern Europe drafted laws and amendments to existing laws proposing stricter reporting requirements for civil society organizations, and broadening state authorities' powers to monitor and limit their activities. For example, **Poland**'s Draft Law on Transparency of Public Life of 2017 would oblige organizations carrying out advocacy and campaigning activities to disclose information about donors or face large fines. The draft law was put on hold in August 2018.⁸⁹ In **Romania**, Draft Law 140/2017 on Associations and Foundations proposes the closure of any NGO which fails to publish reports of their revenues and expenses every six months.⁹⁰ In October 2018, Parliament approved the Law on the Prevention and Control of Money Laundering and Terrorist Financing, placing NGOs into the same financial risk category as banking institutions or gambling companies and imposing a requirement to submit data about all participants in their activities.⁹¹ In **Moldova**, amendments to the Draft NGO Law proposed in 2017 would impose stringent reporting requirements on NGOs that receive foreign

82 Sheila McKechnie Foundation, *The chilling reality, How the lobbying Act is affecting charity & voluntary sector campaigning in the UK*, 25 May 2018, http://smk.org.uk/wp-content/uploads/SMK_The_Chilling_Reality_Lobbying_Act_Research.pdf; see also: Civic Space Watch, *United Kingdom: ways the Lobbying Act restricts campaigning and undermines democracy*, 8 June 2018, <http://civicspacewatch.eu/united-kingdom-6-ways-the-lobbying-act-restricts-campaigning-and-undermines-democracy/>

83 Greenpeace UK, *Greenpeace UK fined for defying Lobbying Act*, 19 April 2017, <https://www.greenpeace.org.uk/press-releases/greenpeace-uk-fined-defying-lobbying-act-20170419/>

84 Law No. 351 on Legal Personalities of 2013 requires civil society organizations to align their objectives and activities with government policy. In 2017 the Supreme Decree 1597 Partial Regulation of the Law for Granting Legal Entity imposed further restrictions on NGO activities in national policies and programmes. See Amnesty International, *Bolivia: Key human rights concerns* (Index: AMR 18/005/2014); Civicus, *Bolivian government using law and force to cow civil society into silence*, 5 April 2017, <https://www.civicus.org/index.php/media-resources/news/interviews/2805-bolivian-government-using-law-and-force-to-cow-civil-society-into-silence>

85 The Amendment to Ordinance no.023/PR/2018 imposes a blanket prohibition on "regional or community-based associations" and bans associations who have different aims or activities from grouping and establishing or joining national or international federations. Foreign associations must renew their authorization regularly, although how often is unspecified. The authorities have also wide powers to dissolve associations including on several broad grounds such as national security, territorial integrity and public order. Amnesty International, *Chad: legal analysis of the Chadian ordinance on the right to freedom of association* (Index: AFR 20/9240/2018)

86 The Law on Mass Organizations of 2013 restricts the activities of organizations that are at odds with Pancasila, the official state philosophy which requires the belief "in the One and Only God", a "just and civilized humanity", "unity of Indonesia", "democracy" and "social justice". Foreign organizations must obtain a permit to operate and their activities must not disrupt the "stability and oneness" of Indonesia; they may not carry out "practical political activities" or fundraising. See also Amnesty International, *Indonesia: Amendment of the Mass Organisations Law expands threats to the freedom of association* (Index: ASA 21/6722/2017)

87 The Decree on Associations of 2017 gives authorities sweeping powers, including the power to arbitrarily control and/or prohibit the formation of associations; broad powers to inspect, monitor and curtail the activities and finances of associations; power to close associations without a right of appeal; and to discipline associations and individual members, and criminalize unregistered associations. See also Amnesty International, *Laos: joint letter on repeal of decree on associations* (Index: ASA 26/7608/2017)

88 The Non-Government Organisations Act of 2016 introduces cumbersome bureaucratic procedures for NGOs and establishes an NGO Bureau which can revoke civil society organizations' licences if they are deemed non-compliant. The NGO Regulations of 2017 introduce further burdensome requirements for NGOs wanting to register with the National Bureau of NGOs or to renew their permit. These laws are often used to control associations engaged in promoting democracy, good governance, anti-corruption measures and transparency. See also Civicus, *2017 Year in review*, <https://www.civicus.org/documents/reports-and-publications/SOCS/2018/socs-2018-year-in-review-sep-en.pdf>; ICNL, Civic Freedom Monitor: *Uganda*, last updated on 23 August 2018, <http://www.icnl.org/research/monitor/uganda.html>

89 For more information, see (in Polish): Rzeczpospolita, *Ustawa o jawności życia publicznego odłożona na półkę*, 10 August 2018, <https://www.rp.pl/Rzad-PiS/308169913-Ustawa-o-jawnosci-zycia-publicznego-odlozona-na-polke.html>

90 Open Society Justice Initiative, *European Union Law and Romanian Draft Law 140/2017 on Associations and Foundations*, 31 January 2018, <https://www.opensocietyfoundations.org/sites/default/files/romania-legal-briefing-20180205.pdf>; Council of Europe, Expert Council on NGO Law, *Opinion on the Romanian draft Law 140/2017 on Associations and Foundations: serious shortcomings as regards compliance with international standards*, 11 December 2017, https://www.coe.int/en/web/ingo/newsroom/-/asset_publisher/BR9aikJBXnwX/content/opinion-on-the-romanian-draft-law-140-2017-on-associations-and-foundations-serious-shortcomings-as-regards-compliance-with-international-standardsAs of 11 October 2018, it has been adopted by the Senate and is now before the Chamber of Deputies

91 Liberties, *Under guise of fighting terrorism, Romania aims to silence NGOs by drowning them in paperwork*, 2 July 2018, <https://www.liberties.eu/en/news/romania-fighting-terrorism-by-drowning-ngos-in-bureaucracy/15203>; Civil Society Europe, *Debate at the LIBE Committee and EP plenary on the rule of law in Romania 1st and 3rd October 2018. Highlights on restrictions on NGOs operating environment, 2017 – 2018*, <https://civilsocietyeuropa-doteu.files.wordpress.com/2018/10/fact-sheet-ngos-restrictions-romania.pdf>

funding and are involved in what is broadly defined as “political activities”, and imposes severe penalties for non-compliance.⁹² In **Ukraine**, two draft laws proposed in 2017 would introduce stringent reporting requirements for civil society organizations. Violation of these requirements would lead to severe sanctions, including hefty fines, loss of non-profit status, and bank account freezes.⁹³

In **Nepal**, the 2015 Constitution directs the government “to involve [NGOs] only in the sectors of national need and priority, while making investment and role of such organizations transparent and accountable”.⁹⁴ Referring to that provision, the government produced the draft Social Welfare and Development Bill of 2016. If enacted, it would provide for compulsory affiliation with the Social Welfare Council, which would have discretionary powers to allow or disallow affiliation, bar civil society organizations from obtaining foreign funding and suspend or dissolve organizations considered to have violated the law. The Draft National Integrity Policy, proposed in 2017, would oblige organizations to obtain government permission to receive donations and prohibit international NGOs from engaging in projects that influence the drafting of laws and policies in Nepal; organizations would have to obtain government approval for their budgets and programmes of work.⁹⁵

In **Malawi**, a bill to amend the NGO Act was proposed in 2017 to introduce restrictions on civil society relating to their funding, registration and the consultative role of the Council of NGOs of Malawi.⁹⁶ On 9 November 2018, Malawi published the Bill, which provides for mandatory registration, the creation of a new state-controlled regulatory authority and imposes disproportionate penalties for non-compliance with the NGO Act. Local organizations have expressed deep concern at the proposal and have asked to be consulted.⁹⁷

92 Amnesty International, *Moldova: Last-minute changes to draft NGO law risk stifling civil society* (Index: EUR 59/6920/2017) The draft bill was approved by the government in March 2018 and has not yet been adopted by Parliament. See: Sorina Macrinici, *Shrinking space for civil society in Moldova*, April 2018, <https://www.soros.md/files/publications/documents/Civil%20Society%20Macrinici.pdf>

93 Amnesty International, *Ukraine: Authorities must stop the harassment of anti-corruption activists and independent civil society organizations*, 7 November 2017 (Index: EUR 50/7408/2017)

94 Article 51(J) (14)

95 Civicus, *Nepal government must halt efforts to curtail civil society organisations*, 22 June 2018, <https://www.civicus.org/index.php/media-resources/news/3232-nepal-government-must-halt-efforts-to-curtail-civil-society-organisations>

96 The International Center for Not-for-Profit Law, Civic Freedom Monitor: *Malawi*, last updated on 19 May 2018, <http://www.icnl.org/research/monitor/malawi.html>

97 CONGOMA, NGO Update on NGO Act Amendment Bill 2018, 11 December 2018, <https://www.congoma.mw/2018/12/11/ngo-update-on-ngo-act-amendment-bill-2018/>

4. LAWS RESTRICTING ACCESS TO FUNDING

“The ability for associations to access funding and resources is an integral and vital part of the right to freedom of association.”

Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, May 2012

Civil society organizations have the right to secure funding without undue interference from the state. According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, “any associations, both registered or unregistered, should have the right to seek and secure funding and resources from domestic, foreign and international entities, including individuals, businesses, CSOs [civil society organizations], governments and international organizations”.⁹⁸ However, sources of funds for organizations have decreased and many countries have imposed tighter controls and restrictions for organizations to access resources. National sources of funding are often tied to government priorities (for example when organizations become implementers of state sponsored social and health services). Frequently, government funding is only open to organizations that align with government views or do not criticize and scrutinize government policy. Moreover, several countries have imposed illegitimate restrictions on organizations that receive funding from abroad, forcing many to close.

In **Russia**, civil society organizations that criticize, or do not conform with, government positions are starved of state funding, while considerable resources are channelled into social service providers who, while providing valuable services, are not engaged in publicly demanding rights or accountability. Groups



Graffiti reading “Foreign agent. Love USA” on the building of the NGO Memorial in Russia’s capital, Moscow [2012]

⁹⁸ Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, A/HRC/10/27, 2012, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf. Also in Resolution adopted by the United Nations General Assembly A/RES/53/144, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1999, <https://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

aligned with government policies, including those espousing nationalist or conservative views and the Orthodox Church have been major receivers of national funds destined for civil society.⁹⁹

Similarly, in **Equatorial Guinea** public funds tend to be allocated to government-affiliated NGOs, while independent civil society organizations are not even considered.¹⁰⁰ In **Poland**, a government-controlled body¹⁰¹ is in charge of distributing funds to NGOs, which has been criticized for favouring those organizations closer to the government and excluding others, such as certain women's rights groups and shelters.¹⁰² Elsewhere, legislation expressly denies funding to NGOs on the basis of their political opinions. In **Israel**, for example, funding can be revoked from institutions who reject Israel's character as a "Jewish state" or mark the country's Independence Day as a day of mourning.¹⁰³

Foreign and international sources of funding are a lifeline to many organizations. Controlling or limiting such funding is an effective way of silencing organizations perceived as critical or independent of the authorities or out of line with government policies. Legislation interfering with international and foreign sources is often part of a broader strategy to stigmatize and undermine the legitimacy of such civil society organizations by portraying them as "foreign agents", "enemies of the state", or "tools of foreign governments' propaganda". Consequently, concepts like "national or "public interest", "national security", "sovereignty" and "counter-terrorism" are frequently used to justify restrictive measures and send the message that these organizations are "disloyal" and threaten the nation.

Russia's "Foreign Agents" law of 2012 is a case in point.¹⁰⁴ As during the Cold War, the term "foreign agent" is still synonymous with "spy", "traitor" and "enemy of the state". Under this law, NGOs registered in Russia and receiving foreign funding are labelled as "foreign agents" if they are engaged in what is defined vaguely as "political activity". Organizations must be listed on the "foreign agents" register, administered by the Ministry of Justice. In the Law's 2012 text, political activity was broadly defined as "participation, including by financing, in organizing and conducting political actions in order to influence decisions by government bodies aimed at changing state policies, as well as influencing public opinion with such aims".¹⁰⁵ In 2016, the definition was expanded to include vast swathes of public life and almost any form of participation in it.¹⁰⁶

Although the Law explicitly states that the activities in the sphere of science, culture, art, health care, social support and environmental protection are not classified as "political activities", in practice, almost any NGO receiving funds from abroad is likely to be placed on the "foreign agents" register, irrespective of the nature of its activities or the amount of funding, and regardless of whether funding is received directly as a grant from a foreign foundation or indirectly as a contribution from another Russian NGO which receives (or has received) foreign funding.¹⁰⁷ The legislation is applied so broadly that even an organization supporting people with diabetes was heavily fined and put on the register, leading its members to announce its closure in October 2018.¹⁰⁸

99 Saskia Brechenmacher, *Civil society under assault: Repression and responses in Russia, Egypt and Ethiopia*, published by Carnegie Endowment for International Peace, 2017, <https://carnegieendowment.org/2017/05/18/civil-society-under-assault-repression-and-responses-in-russia-egypt-and-ethiopia-pub-69953>

100 Amnesty International, *Equatorial Guinea: Free Human Rights Defenders* (News service, 21 April 2017)

101 The National Freedom Institute, created in 2017, distributes public funds to NGOs. The Institute's Director and the majority of its Council are appointed by the Committee for Public Benefit Activity, chaired by a member of the Polish Council of Ministers

102 CoE Commissioner for Human Rights, Commissioner concerned about human rights backsliding in Poland, 6 February 2018, <https://www.coe.int/en/web/commissioner/-/commissioner-concerned-about-human-rights-backsliding-in-poland?desktop=true>; Human Rights Watch, *Poland no friend to women*, 3 December 2017, <https://www.hrw.org/news/2017/12/03/poland-no-friend-women>

103 The Budget Foundations Law (Nakba Law) of 2011, <https://www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/33-Budget-Foundations-Law-Amendment40-Nakba-Law.pdf> In June 2017, Prime Minister Benjamin Netanyahu announced that his government will work on a law that limits Israeli NGOs' access to foreign funding

104 The full name of the law is Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent

105 Federal law N.121-FZ of 20 July 2012 «О внесении изменений в отдельные законодательные акты российской федерации в части регулирования деятельности некоммерческих организаций, выполняющих функции иностранного агента» ("Foreign agents' law"), was published in "Rossiiskaya Gazeta" on 23 July 2012

106 See amendment to Item 6 of Article 2 of the Law on Non-Commercial organizations

107 Amnesty International, *Agents of the people. Four years of "Foreign Agents" Law in Russia* (Index: EUR 46/5147/2016)

108 Human Rights Watch, *In Russia, Helping People with Diabetes is "Foreign Agent" Activity*, 7 November 2018, <https://www.hrw.org/news/2018/11/07/russia-helping-people-diabetes-foreign-agent-activity>

The Law has had a hugely chilling effect on Russian civil society.¹⁰⁹ According to data from the Ministry of Justice, as of June 2018, 76 NGOs were active on the register. At least 158 groups had been labelled “foreign agents” at some point since the Law came into force, including 30 which were forced to close and more than 40 which were removed from the register after they stopped receiving foreign funding, even if that meant they had to reduce their activities as a result.¹¹⁰

Organizations branded as “foreign agents”, and who had difficulties in continuing their work, include environmental organizations like Bellona-Murmansk and Dront; organizations working for the promotion of education and engaged in historical research such as Memorial; organizations advocating for improvements in the criminal justice system and prison reforms like Pravovaia Osnova and the Committee for the Prevention of Torture; women’s rights organizations like Women of the Don Union; organizations promoting the right to freedom of expression such as the Mass Media Defence Centre; organizations defending minority rights like the LGBTI group Maximum; and the Novosibirsk Foundation for Protection for Consumer Rights.¹¹¹ These and many other organizations have been subjected to inspections, heavy fines, threats and judicial proceedings, and ultimately left to face the difficult choice of whether to continue accepting overseas funds and be labelled “foreign agents”, to close down or to rely exclusively on Russian sources, including presidential or local authority grants which – if awarded – risks restricting their independence.

GALINA ARAPOVA, MASS MEDIA DEFENCE CENTRE (RUSSIAN FEDERATION) – PROMOTING FREEDOM OF EXPRESSION AND PROVIDING LEGAL ASSISTANCE

“The Mass Media Defence Centre (MMDC), a non-profit organization... was declared a “foreign agent” in 2015. The “Foreign Agents” Law has severely limited the work of our organization... we have been de-facto banned from conducting seminars for employees in the press offices of municipal and law enforcement agencies and regional courts. Also, state authorities cut access to US funding for all Russian NGOs, declaring the vast majority of US donors as undesirable organizations. This critically limited access to various donors for Russian NGOs... we face uncertainty and it is difficult to have a vision or a long term strategic plan and to secure other types of funding.

Cutting access to foreign funds and introducing strict reporting requirements created extra work for our... staff... and diverted our staff’s time and energies from core activities. This, coupled with paranoia about being spied on by state authorities, cause unhealthy tension within the organization which causes burnout. I believe this was a deliberate attempt by state authorities to divert the NGOs attention from human rights violations and to put an end to our work. Lobbying the Russian government directly is pointless and counterproductive. There are no signs of openness. Our only hope... is to challenge of the foreign agent status in the European Court on Human Rights instead. A decision in this case will have impact not just for us but also other NGOs facing similar situations in other countries, for instance Hungary”.¹¹²

Several Russian NGOs are currently challenging the “Foreign Agents” law before the European Court of Human Rights.¹¹³ The arguments submitted include the fact that the stigmatization of those who receive foreign funding

109 Amnesty International, *Russia: A year on, Putin’s “foreign agents law” choking freedom* (News service, 20 November 2013); Amnesty International, *Russia: Another independent organization faces hefty fine* (News service, 6 June 2013); Amnesty International, “Are we really foreign agents?” – *Russia’s crackdown on civil society* (News service, 12 November 2014); Amnesty International, *Russian court forces closure of prominent human rights NGO* (News service, 8 April 2014); Amnesty International, *Another prominent Russian NGO is facing closure following a court decision compelling it to register as a “foreign agent”* (Index: EUR 46/036/2014); Amnesty International, *Russian NGO branded as “foreign agent” after reporting on Russian military action in Ukraine* (News service, 29 August 2014); Amnesty International, *Russia: Joint NGO letter to the president of the Russian Federation to stop clampdown on freedom of association* (Index: EUR 46/050/2014); Amnesty International, *Violation of the right to freedom of expression, association and assembly in Russia* (Index: EUR 46/048/2014); Amnesty International, *Russia’s increasingly harsh climate for environmentalists* (News service, 10 October 2014); Amnesty International, *Open letter to Putin – 148 NGOs slam “foreign agents” law*, 24 November 2014; Amnesty International, *Russian NGOs cynically treated like enemies of the state* (News service, 15 November 2015); Amnesty International, *Agents of the people. Four years of “Foreign Agents” Law in Russia* (Index: EUR 46/5147/2016)

110 Human Rights Watch, *Russia: Government vs. Rights Groups*, 18 June 2018, <https://www.hrw.org/russia-government-against-rights-groups-battle-chronicle>

111 Amnesty International, *Agents of the people. Four years of “Foreign Agents” Law in Russia* (Index: EUR 46/5147/2016)

112 Interview with Galina Arapova, October 2018

113 ECHR: *Ecodefence and others v. the Russian Federation* (9988/13), <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-173049%22%5D%7D> There are other cases before the ECHR, for example: *Levada Centre vs Russia*, no. 16094/17 and Application no. 7995/18 *Andrey Vladimirovich Rudomakha and North Caucasus Environmental watch vs Russia*

interferes with their rights to freedom of expression and association because it has, "... a significant impact on the ability of NGOs and their representatives to engage in public debate and to participate in civil society".¹¹⁴

Russia's "Foreign Agents" law has had a knock-on effect in other countries in the post-Soviet space and beyond, leading to the introduction of new legislation to restrict foreign funding. In 2013, **Azerbaijan** amended its NGO law to prohibit foreign funding to NGOs of over AZN200 (USD117) unless prior approval is obtained from the Ministry of Justice.¹¹⁵ In **Kazakhstan**, the 2016 Amendments to the Tax Code obliged civil society organizations that receive foreign funding for certain activities to inform tax authorities on receipt of funds.¹¹⁶ In **Tajikistan**, the Law on Public Associations was amended in 2015, requiring NGOs to notify the Ministry of Justice when they receive funding from foreign sources and introducing inspection procedures for associations.¹¹⁷ In **Bosnia's Republika Srpska**, the government announced in June 2018 the imminent adoption of the Law on Foreign Funding which would increase government scrutiny over NGOs receiving foreign funds and potentially curtail their activities that are deemed politically controversial.¹¹⁸

In **Belarus**, NGOs that accept foreign donations "in violation of law"¹¹⁹ face administrative penalties and individuals face prosecution for receiving any foreign grants or donations "in violation of the Belarusian legislation". A 2015 decree¹²⁰ further tightened governmental control over foreign donations as it introduced tougher and more vaguely worded prohibitions on the use of foreign aid, stricter reporting requirements for foreign donations, and gave the Department of Humanitarian Affairs broad powers to oversee the use of foreign funding, including by preferential treatment for state approved humanitarian projects.¹²¹

In **Egypt**, the new NGO law requires prior approval to receive funding from abroad by a body called "the National Authority for Regulation of Foreign Non-Governmental Organizations". The body includes representatives from the ministries of Foreign Affairs, Defence, Interior, the General Intelligence, and other governmental bodies. The law also requires prior approval for local fundraising. Failure to secure permission is punishable by up to five years in prison and a fine of 1 million Egyptian pounds. Further, anyone receiving funds from abroad "with the aim of pursuing acts harmful to national interests or destabilizing general peace or the country's independence and its unity" faces life imprisonment in the criminal code.¹²² That article was originally used as the basis for Case 173, also known as the "foreign funding case", ongoing since 2011, and the pre-trial detention of Hisham Gaafar, a director of Mada for Media Studies, which has continued for more than three years. Numerous national and foreign organizations are being prosecuted under the article in a clear example of persecution of human rights and feminist organizations.¹²³ Thirty human rights defenders and directors of civil society organizations have received travel bans, while 7 organizations and 10 individuals had their assets frozen. Investigative judges summoned and interrogated NGO directors, including Mohamed

114 International Commission of Jurists, *Russia: ICJ and Amnesty International intervene on "foreign agents" law*, 3 October 2017, <https://www.icj.org/russia-icj-and-amnesty-international-intervene-on-foreign-agents-law/>

See also the Council of Europe Commissioner for Human Rights' third party intervention in the proceedings concerning ECODEFENCE and others against Russia and 48 other applications concerning Russia's legislative framework on non-commercial organizations and, specifically, on the "Foreign Agents" law, 5 July 2017, <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680731087>

115 The International Center for Non-Profit Law, Civic Freedom Monitor: *Azerbaijan*, last updated on 21 March 2018, <http://www.icnl.org/research/monitor/azerbaijan.html>

116 Civicus Monitor, *Special series on threats to civic space in Kazakhstan - Part 1: Association*, <https://monitor.civicus.org/newsfeed/2017/02/03/special-series-threats-civic-space-kazakhstan-part-1-association/>

117 The International Center for Non-Profit Law, Civic Freedom Monitor: *Tajikistan*, last updated on 8 June 2018, <http://www.icnl.org/research/monitor/tajikistan.html> Amnesty International, *Anti-torture and other human rights groups vulnerable in Kazakhstan, Kyrgyzstan and Tajikistan* (Index: EUR 04/002/2014)

118 Srpska Info, *Prijedlog SNSD-a ide po hitnom postupku pred poslanike: Srpska dobija zakon o stranim donacijama*, June 2018, <https://srpskainfo.com/prijedlog-snsd-ide-po-hitnom-postupku-pred-poslanike-srpska-dobija-zakon-o-stranim-donacijama/>

119 Changes were made to the Administrative Code in 2011 introducing administrative penalties

120 Presidential Decree no.5 on Foreign Gratuitous Aid of 2015

121 Civicus Monitor, *Activists face tougher regulation and state surveillance*, <https://monitor.civicus.org/newsfeed/2016/07/08/be-updated/> The International Center for Non-Profit Law, Civic Freedom Monitor: *Belarus*, last updated on 13 August 2018 <http://www.icnl.org/research/monitor/belarus.html>

122 Article 78 of the Penal Code amended by President Sisi in September 2015

123 Case No 173 is also commonly referred to as the "case on foreign funding of civil society." In July 2011, the cabinet ordered the Minister of Justice to establish a fact-finding committee to look into foreign funding received by civil society groups and to determine which of those groups are registered under Law 84 of 2002. In June 2013, a Cairo criminal court sentenced 43 foreign and Egyptian employees of foreign NGOs to sentences ranging between one and five years. The directors and senior staff were sentenced to five years' imprisonment, mostly in absentia. Egyptian staff who remained in-country were given one-year suspended sentences. The court also ordered the closure of the organizations in question: the International Republican Institute, the National Democratic Institute, Freedom House, the International Center for Journalists and the Konrad Adenauer Foundation. The Court of Cassation struck down the sentence, and the case is currently undergoing a retrial. See Egyptian Initiative for Personal Rights, *Background on Case No. 173 - the "foreign funding case" imminent risk of prosecution and closure*, 21 March 2015, <https://eipr.org/en/press/2016/03/background-case-no-173-%E2%80%9Cforeign-funding-case%E2%80%9D>; Amnesty International, *Close Case 173*, <https://www.amnesty.org/en/latest/campaigns/2016/12/close-case-173/>

Zaree from the Cairo Institute for Human Rights Studies, Mustafa el-Hassan from Hisham Mubarak Law Center, Azza Soliman of the Centre for Egyptian Women Legal Assistance and several others.¹²⁴ In March 2018, the organization Nazra for Feminist Studies announced the closure of its office as a direct consequence of the long term freeze on the assets of the organization and on Mozn Hassan, its executive director.

4.1 CAN STATES LEGITIMATELY RESTRICT FOREIGN FUNDING?

International human rights law allows for states to impose certain regulations on the right to seek, receive and utilize funding, for example to avoid undue influence in domestic political affairs - such as support for certain factions during election campaigns or referendums. There may also be equally legitimate reasons for putting in place controls over large movements of money to or from abroad – for example to prevent money laundering or tax evasion.

However, such controls and regulations must be necessary and proportionate to those limited legitimate aims specified under international human rights law. Laws imposing a blanket restriction on foreign funding are arbitrary and have been used to silence CSOs, especially those that are critical of those in power. Similarly, unreasonable restrictions on movements of funds, such as the obligation in **Burundi** to have any foreign funding transferred through Burundi's Central Bank, are designed to keep a tight control over the money that local organizations receive.¹²⁵

In **Ireland**, a 2001 amendment to the 1997 Electoral Act imposed a blanket ban on overseas donations to civil society groups, and placed severe limits on domestic donations. According to the Law, “any individual or organisation that accepts a donation over €100 (USD114) given for political purposes is required to register [...] and is then subject to the Act's donation limits and disclosure thresholds”.¹²⁶ Failure to comply with these requirements is a criminal offence. One of the main issues with the amendment is that “political purposes” is so broadly defined that it can include the general advocacy work of a wide range of civil society organizations, including those dedicated to the defence and promotion of human rights, contravening Ireland's obligations under international human rights law, including the rights to freedom of association and expression. The EU Fundamental Rights Agency warned in 2018 that a blanket ban on foreign funding could have a particularly serious impact on civil society organizations in Ireland, where most independent funding comes from trusts and foundations based outside the country.¹²⁷ The law has been applied to civil society organizations, including those campaigning on abortion rights outside official election or referendum campaign periods.¹²⁸ For example, the Standards in Public Office Commission ordered Amnesty International Ireland to pay back a grant of EUR137,000 (USD156,000) made in 2016 to support a campaign to ensure abortion laws in Ireland comply with human rights.¹²⁹ Two years later, the Irish High Court quashed the decision, with the Standards in Public Office Commission recognizing that it was procedurally flawed.¹³⁰

In **Algeria**, the 2012 Law on Associations prohibits civil society organizations from receiving funds from foreign diplomatic offices or organizations outside of pre-established co-operation relationships and requires that such funding is subject to the prior approval of the authorities. Such restrictions subject associations to the authorities' discretionary power and can limit their ability to obtain and use resources essential to their work.¹³¹

124 Amnesty International, *Egypt: NGO law threatens to annihilate human rights groups* (News service, 30 May 2017)

125 Amnesty International, *Burundi: Further crackdown on civil society unacceptable* (Index: AFR 16/5678/2017)

126 Standards in Public Office Commission, *Press Release: Standards Commission comments on funding rules under Electoral Act*, 13 December 2017, <http://www.sipo.ie/en/About-Us/News/Press-Releases/2017-Press-Releases/Press-release-Standards-Commission-comments-on-funding-rules-under-Electoral-Act.html>

127 European Agency for Fundamental Human Rights, *Challenges facing civil society organisations working on human rights in the EU*, January 2018, <http://fra.europa.eu/en/publication/2018/challenges-facing-civil-society-orgs-human-rights-eu>
Amnesty International Ireland, *EU report expresses concerns regarding overly broad application of Ireland's Electoral Act (Public statement, 18 January 2018)*, <https://www.amnesty.ie/eu-report-expresses-concerns-regarding-overly-broad-application-irelands-electoral-act>

128 Civicus Monitor, *Foreign funding restrictions a “threat” to civil society in Ireland*, 21 December 2017, <https://monitor.civicus.org/news-feed/2017/12/21/foreign-funding-rules-threat-civil-society-ireland/>

129 Amnesty International, *Ireland: human rights organizations under threat from draconian law as Amnesty could face criminal charges* (News service, 8 December 2017)

130 Amnesty International Ireland, *Amnesty welcomes quashing of SIPO's decision on OSF grant* (Public statement, 31 July 2018)

131 The International Center for Non-Profit Law, Civic Freedom Monitor: *Algeria*, last updated on 9 October 2018, <http://www.icnl.org/research/monitor/algeria.html>

In 2017, **Hungary** adopted the Law on the Transparency of Organizations Supported from Abroad, echoing Russia's 2012 "Foreign Agents" law. It forces civil society organizations which receive direct and indirect funding from abroad of over HUF7.2 million (USD25,629) in a tax year to re-register as a "civic organization funded from abroad" and to include this pejorative label in all their publications and their website. The new legislation added further stringent reporting requirements for those receiving foreign funds, including an obligation to report donations of at least HUF500,000 (USD1,775) per tax year, and to provide the donor's details. Organizations who fail to comply may face heavy fines and ultimately the suspension of the right to operate in the country.¹³² The Law suggests that NGOs funded from abroad may serve "foreign interests" and that it is, therefore, necessary to fight money laundering and international terrorism. In reality, the law aims to purposefully target NGOs that promote the rule of law, the protection of refugees, migrants and other marginalized groups' rights, and the provision of social and legal services insufficiently offered by the state. With a comprehensive NGO law already in place since 2011, with copious requirements, including detailed reporting on funding to ensure transparency and accountability of NGOs, the 2017 law has been used to crack down on and silence critical voices, discredit civil society organizations' work and turn people against them.¹³³

In **Belarus**, amendments to various pieces of legislation have increased state control over civil society's activities, particularly their ability to obtain funding. Since 2011, the Law on Associations has prohibited associations from keeping funds in banks and other financial institutions abroad. This restriction applies to associations but not to individuals, commercial enterprises, foundations or institutions.¹³⁴ In 2011, it was used against Ales Bialiatski, chair of the Human Rights Centre Viasna, who was arrested and sentenced to four-and-a-half years' imprisonment on charges of "concealment of income on a large scale",¹³⁵ confiscation of his property "including belongings registered in the name of other persons" and a fine of BYR721 million (USD82,700) for alleged unpaid taxes and BYR36 million (USD4,100) in state costs. The charges were politically motivated and intended to obstruct his legitimate work as a human rights defender. He was convicted after a grossly unfair trial that did not meet international standards of fairness and was conditionally released in June 2014 after almost three years in prison.¹³⁶

ALES BIALIATSKI, HUMAN RIGHTS CENTRE VIASNA (BELARUS)

"The Belarusian government continues to create a hostile environment for CSOs and limits their capacity to work. The decree on Foreign Gratuitous Aid of 2015 does not provide for the possibility of receiving and using foreign gratuitous aid for human rights-related work. The legislation even prohibits the use of foreign gratuitous aid for holding workshops and conducting other forms of educational work and training open to the public... it is virtually impossible to seek and receive funding for human rights work within the country, since the private sector is wary of providing such funding out of fear of being persecuted by the authorities.

"Even so, NGOs are still trying to carry on.... I would like to remind the government about their positive obligations to create the conditions for associations to assemble peacefully and to eliminate undue interference with the activities of associations and the restriction on freedom to assemble peacefully. The international community must pressure the Belarusian authorities with regard to their international civil rights obligations, especially the right to freedom of association. It is also important to guarantee access to financial aid, aimed at the development of civil society in Belarus."¹³⁷

132 European Center for Non-Profit Law, *Hungarian Law on the Transparency of organisations supported from abroad: what's at stake?*, <http://ecnl.org/hungarian-law-on-the-transparency-of-organisations-supported-from-abroad-what-is-at-stake/>

133 Amnesty International, *Hungary: NGO law a vicious and calculated assault on civil society* (News service, 13 June 2017)

134 Amnesty International, *What is not permitted is prohibited. Silencing civil society in Belarus* (Index: EUR 49/002/2013)

135 Article 243.2 of the Belarusian Criminal Code

136 Amnesty International, *What is not permitted is prohibited. Silencing civil society in Belarus* (Index: EUR 49/002/2013); *Frontline Defenders, Statement on sentencing of human rights defender Mr Ales Bialiatski*, 25 November 2011, <https://www.frontlinedefenders.org/en/case/case-history-ales-bialiatski#case-update-id-4173>

137 Interview with Ales Bialiatski, October 2018

5. RESTRICTIONS TARGETING “UNACCEPTABLE” VOICES

States have the duty to foster a healthy civic space, and to enable and protect those who operate within that space, without discrimination. However, an increasing number of countries are enacting laws to limit certain activities and to target individuals and organizations who carry them out, such as those providing assistance to refugees and migrants, combating corruption, protecting the environment, or defending the rights of women and LGBTI people. Foreign organizations and those who receive funds from abroad have particularly been targeted by restrictive laws regulating associations. These organizations are often viewed with suspicion - as tools of foreign governments or acting against national interests - when in reality they are promoting human rights and accountability. In many cases, legitimate activities are seen as “dangerous”, “criminal”, “against national unity” or as “acts of terrorism”.

These laws are often based on divisive politics and vague notions and the introduction of such legislation is justified on grounds such as national identity, morality, religious values or national security. They not only unduly limit the rights to freedom of association, expression and peaceful assembly of human rights defenders and civil society organizations, but also expose them to an increased risk of smear campaigns, stigmatization, harassment and attacks simply for carrying out or being related to human rights activities which those in power dislike, often because they do not align with their views or political agendas.

In **Israel**, for example, a series of laws passed in the last decade have restricted the work of NGOs, particularly those advocating for the rights of Palestinians. Among these repressive laws are the Budget Foundations Law of 2011, which blocked funding to anyone denying the Jewish character of Israel, and the Breaking the Silence Law of 2018 that prohibits NGOs from criticizing the Israeli army and bans them from accessing public schools.¹³⁸ Several foreign human rights defenders have been refused entry to Israel or have faced deportation if their work is perceived to be in support of Palestinian rights or for criticizing Israeli policies.¹³⁹

5.1 GROUPS DEFENDING THE RIGHTS OF REFUGEES AND MIGRANTS

In **Hungary**, the so-called “Stop Soros” package of laws passed in 2018 – ironically on World Refugee Day – is purposefully designed to target individuals and organizations who carry out activities in support of

138 'Breaking the Silence Bill' passed into law, *The Jerusalem Post*, 17 July 2018, <https://www.jpost.com/Israel-News/Breaking-the-Silence-bill-passed-into-law-562699>

139 Al-Haq, *PHROC Condemns Israel's Latest Deportation of Eminent Dutch Human Rights Defenders, Lydia de Leeuw and Pauline Overeem*, 24 July 2018, <http://www.alhaq.org/advocacy/targets/palestinian-human-rights-organizations/1292-phroc-condemns-israels-latest-deportation-of-eminent-dutch-human-rights-defenders-lydia-de-leeuw-and-pauline-overeem>; Haaretz, *Citing Alqasem, Israel Asks Court for More Time in Case of Human Rights Watch Worker Facing Deportation Over BDS*, 21 October 2018, <https://www.haaretz.com/israel-news/.premium-israel-asks-court-for-more-time-to-respond-on-hrw-worker-facing-deportation-over-bds-1.6576484>

refugees and migrants.¹⁴⁰ It includes amendments to nine laws, including provisions of the Penal Code, the Police Act, the Asylum Law and laws regulating border control. The new law creates the criminal offence of “facilitating illegal immigration” and applies to both individuals and organizations that are accused of engaging in certain “organizational activities” that assist people who are seeking asylum as well as those who have entered Hungary irregularly and are attempting to secure a residence permit.¹⁴¹ Activities like border monitoring, preparation or distribution of information materials, and building or operating a network in support of facilitating “illegal immigration” carry a criminal sanction of up to one year in prison. The vague terminology contained in this law could see criminal penalties imposed for a broad range of activities, including campaigning, providing legal support to migrants and refugees or conducting research into human rights violations. The criminalization of such activities is a direct assault on the work of civil society actors who support or campaign on behalf of refugees, asylum-seekers and migrants.¹⁴²

In addition to the “Stop Soros” package, further legislation entered into force in August 2018, imposing a punitive tax on any funds received by civil society organizations, the so-called “special tax on immigration”. The law requires organizations to pay an additional 25% tax on the funding of activities deemed to be “supporting immigration”, including “carrying out and participating in media campaigns”, “building and operating a network”, “educational activities” and “propaganda activity that portrays immigration in a positive light”.¹⁴³

The intentionally vaguely worded law is effectively a tax on freedom of expression. It paves the way for politically-motivated tax investigations of NGOs conducting much needed and legitimate work. The punitive legislation renders NGOs vulnerable to potentially significant sanctions – including a 50% fine on top of the tax payable – which may jeopardise their ability to operate in the country.

Amnesty International Hungary has been heavily scrutinized and criticized by pro-government media and subjected to smear campaigns. In April 2018, a pro-government weekly magazine published the names of over 200 people it claimed were part of what Prime Minister Victor Orbán called the “Soros’ mercenary army” paid to bring down the government. The list included members of Amnesty International, Transparency International, prominent civil society activists, as well as members of the Central European University.¹⁴⁴ In June 2018, a ruling party spokesperson announced that Amnesty International Hungary facilitated illegal immigration and wanted to flood Europe and Hungary with migrants. He encouraged government supporters to openly fight against Amnesty International and other organizations who, as he alleged, “threaten Hungary’s security” by supporting migration.¹⁴⁵

ÁRON DEMETER, AMNESTY INTERNATIONAL HUNGARY

“The legal provisions introduced in 2018 support the authorities’ narrative that portrays NGOs as part of a master-plan to replace white Christians with Muslims, a plan allegedly concocted by George Soros who has been identified by Prime Minister Orbán as public enemy number one. So far, these laws have not yet had a direct and tangible legal impact on organizations.... But they are part of a conscious and well-crafted plan of the Hungarian authorities to create a climate of suspicion and a threatening environment against certain NGOs and activists, particularly those working on the rights of refugees, asylum-seekers and migrants.

140 The “Stop Soros” legislative pack is named after Hungarian-born philanthropist George Soros whom the Hungarian government has explicitly targeted in its smear campaign, claiming he wants to settle millions of immigrants in Hungary and other countries in Europe. Full translation into English of the text of the new law, courtesy of the Hungarian Helsinki Committee, <https://www.helsinki.hu/en/lexngo-2018/>

141 It is already a criminal offence in Hungary to assist a person to cross Hungary’s border unlawfully or to remain in Hungary unlawfully, or for a person to cross a border barrier. Hungarian Criminal Code, Sections 353 (smuggling illegal immigrants); 354 (facilitation of illegal residence); 352/A.

142 Amnesty International, *Hungary: New laws that violate human rights, threaten civil society and undermine the rule of law should be shelved*, (Index: EUR 27/8633/2018)

143 Full translation into English of the text of the law, courtesy of the Hungarian Helsinki Committee, <https://www.helsinki.hu/wp-content/uploads/Special-immigration-tax-as-adopted-20-July-2018.pdf>

144 “List of 200 ‘Soros mercenaries’ published in Hungary”, *The New York Post*, 12 April 2018, <https://nypost.com/2018/04/12/list-of-200-soros-mercenaries-published-in-hungary/>.

145 Amnesty International, *Hungary: New laws that violate human rights, threaten civil society and undermine the rule of law should be shelved* (Index: EUR 27/8633/2018)

The immediate effect is that organizations and individuals might start to censor themselves because they are afraid of negative media coverage and of the government's reaction. For instance, in September 2018 the Ministry of Justice declared that the government would soon discuss how to prosecute organizations that do not pay the 25% tax imposed on organizations "supporting immigration". This may or may not actually happen. However, we live in uncertainty... we do not know what is going to happen to us and other organizations, and what other laws will be passed next. This has set back some of the activities we had planned to implement and diverted all our energies into dealing with the consequences of these laws. Several members of staff, including me, have received negative media coverage and have been subjected to online trolling, abuse and threats of violence. Venues refused to host our events and schools have refused to hold human rights education activities for fear of repercussions. But we remain strong and we will continue to push back against the attempts to stigmatize, intimidate and frighten Hungarian civil society".¹⁴⁶

In July 2018, the European Commission launched an infringement procedure against Hungary in relation to the "Stop Soros" package.¹⁴⁷ A previous infringement procedure against Hungary regarding the 2017 foreign funding legislation has been referred to the Court of Justice of the European Union in December 2017 and is pending before the Court.¹⁴⁸

In September 2018, the European Parliament asked the Council of the EU to assess whether Hungary is in breach of EU's founding principles and if so, to pursue disciplinary action at a later stage. This is an unprecedented step taken by the EU Parliament to prevent a member state from systematically threatening the EU's founding values, including the rule of law, the rights to freedom of association, freedom of expression, freedom of thought, belief and religion, the rights of persons belonging to minorities and the rights of migrants, asylum-seekers and refugees.¹⁴⁹

In **Australia**, the authorities have taken several measures in recent years to obstruct the work of civil society organizations and human rights defenders, particularly those working on migration and marginalized groups. According to the Border Force Act of 2015, "immigration and border protection workers", including law enforcement officials, doctors, nurses, counsellors and other health professionals, risk two years' imprisonment if they publicly reveal physical or sexual abuse or medical negligence committed in Australia's offshore detention centres. In 2016, the government removed the prohibition on health professionals to speak out, but it remains in place for security guards and law enforcement officials. Also, in 2016 the government cut AUD1.5 billion (USD1.09 billion) government funding to NGOs, including health advocates, Aboriginal groups and community legal centres, limiting their work to mere service delivery and effectively suppressing their ability to conduct advocacy work on a range of issues.¹⁵⁰

At the end of his mission to Australia in 2016, the UN Special Rapporteur on the situation of human rights defenders observed "the 'chilling effect' of the combined measures, including the lack of meaningful consultations on government decisions; funding cuts; general government's antipathy of advocacy; "gagging clauses" in funding agreements; secrecy laws and the stifling Border Force Act; undermining the AHRC [Australian Human Rights Commission] and vilifying human rights defenders".¹⁵¹ According to the Special Rapporteur, many activists he met with spoke of an atmosphere of fear, censorship and retaliation. He also

146 Interview with Áron Demeter, September 2018

147 An "infringement procedure" refers to the legal action that the European Commission may take against a EU member states which fails to implement ("infringes") EU law, https://ec.europa.eu/info/law/law-making-process/applying-eu-law/infringement-procedure_en

148 European Commission, *Migration and asylum: Commission takes further steps in infringement procedures against Hungary*, 29 July 2018, http://europa.eu/rapid/press-release_IP-18-4522_en.htm

149 European Parliament, European Parliament resolution of 12 September 2018 on a proposal calling on the Council to determine, pursuant to Article 7(1) of the Treaty on European Union, the existence of a clear risk of a serious breach by Hungary of the values on which the Union is founded (2017/2131(INL)), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2018-0340&language=EN&ring=A8-2018-0250>

150 "Coalition cuts \$1.5bn in NGO funding' over two years", *The Sydney Morning Herald*, 22 February 2016, <https://www.smh.com.au/politics/federal/coalition-cuts-15bn-in-ngo-advocacy-funding-over-two-years-20160222-gn0blv.html>
See also: Human Rights Law Centre, *Safeguarding democracy*, February 2016, http://static1.squarespace.com/static/580025f66b8f5b2dabbe4291/5812996f1dd4540186f54894/581299ee1dd4540186f55760/14776140622728/HRLC_Report_SafeguardingDemocracy_online.pdf?format=original

151 United Nations Human Rights, Office of the High Commissioner, End of mission statement by Michel Forst, United Nations Special Rapporteur on the situation of human rights defenders, 2016, <https://www.ohchr.org/en/newsevents/pages/DisplayNews.aspx?NewsID=20689&LangID=E>

noted that several human rights defenders had preferred not to meet with him because of the fear of reprisals for disclosing information.

5.2 WOMEN HUMAN RIGHTS DEFENDERS (WHRDS)

While there may be no legislation that explicitly prevents WHRDs from forming organizations, in practice groups who are composed of women, and groups who defend women's rights, including gender equality and sexual and reproductive health rights, are confronted with a variety of barriers. According to analysis by the Women Human Rights Defenders International Coalition, these stem from entrenched patriarchy and traditional notions about gender identity and roles, coupled with contexts of fundamentalism and other forms of religious and national extremisms, the militarisation of public security and high levels of violence in society, as well as widespread privatization of services and austerity policies.¹⁵²

These barriers may hinder individual WHRDs from participating freely in organizations due to discrimination, inequality and violence in the private and public sphere, but it also affects their ability to form associations and organize, including when registering – as seen above in the case of two women's organization in **Algeria**,¹⁵³ when carrying out specific activities – as seen in **Russia** with the prosecution under the Foreign Agents law of the head of NGO the Women of the Don, Valentina Cherevatenko,¹⁵⁴ or in **Egypt** with Nazra for Feminist Studies, whose assets were frozen in January 2017,¹⁵⁵ and with restrictions on fund raising - as in the case of **Poland** where certain women's groups and shelters, such as the Women Right's Centre, have been excluded from government funding because of the activities they carry out.¹⁵⁶

In the **USA**, the Global Gag Rule – also known as the Mexico City Policy¹⁵⁷ – was first instated in 1984. Since that time, it has been rejected by some administrations and reinstated by others, including by the current government. This rule blocks US global health assistance to all foreign non-governmental organizations that use their own funding to provide abortion services, counselling or referrals, or advocate to decriminalize or expand these services. For example, Marie Stopes International, a women's rights organization that provides contraception and safe abortion services to women and girls around the world, is facing an 80-million-dollar funding gap due to obstacles posed by the Global Gag Rule in seeking and receiving resources. This resource shortfall will affect their ability to provide contraception and safe abortion services, and to prevent maternal deaths and injuries.¹⁵⁸ The expansion of this rule under the current administration to further impose restrictions on all US-funded global health assistance, not only impacted organizations involved in abortion-related services and advocacy, but also organizations who receive US funds for the HIV, malaria and tuberculosis response, maternal and child health care, contraception services, and for others. Furthermore, the Global Gag Rule has limited the ability of women's rights groups to defend and promote human rights, including by imposing barriers to their exercise of their rights to freedom of expression and association, and their ability to discuss new human rights ideas and principles and to advocate their acceptance.¹⁵⁹

152 WHRD-IC, Global report on the situation of women human rights defenders, 2012, http://defendingwomen-defendingrights.org/wp-content/uploads/2014/03/WHRD_IC_Global-Report_2012.pdf

153 See case mentioned above. Amnesty International, *Algeria: Disturbing clampdown against civil society as two women's NGOs forced to close* (News service, 2 March 2018)

154 Amnesty International, *Russian federation: Russia drops case against rights defender: Valentina Cherevatenko* (Index: EUR 46/6895/2017)

155 Nazra for feminist studies, *The Asset Freeze of Nazra for Feminist Studies and its Founder and Executive Director is not an End to its Feminist Work*, 11 January 2017, <http://nazra.org/en/2017/01/asset-freeze-nazra-feminist-studies-and-its-founder-and-executive-director-not-end-its>

156 Onet Łódź, *Centrum Praw Kobiet ponownie bez pieniędzy z resortu Zbigniewa Ziobry. "Boję się o los kobiet"*, 17 January 2017, <https://lodz.onet.pl/centrum-praw-kobiet-ponownie-bez-pieniedzy-z-resortu-zbigniewa-ziobry-boje-sie-o-los/5ev52mj>

157 Presidential Memorandum Regarding the Mexico City Policy, 23 January 2017, <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-regarding-mexico-city-policy/>

158 Marie Stopes International, *Trump's Global Gag Rule one year on: Marie Stopes International faces \$80m funding gap*, 19 January 2018, <https://mariestopes.org/news/2018/1/global-gag-rule-anniversary/>

159 Amnesty International, *Trump's Global Gag a Devastating Blow for Women's Rights*, (News Service, 25 January 2017); Doctors without borders, *Why the New Global Gag Rule Is More Dangerous Than Ever*, 7 June 2018, https://medium.com/@MSF_USA/why-the-new-global-gag-rule-is-more-dangerous-than-ever-f16ac6fe9b7e; Human Rights Watch, *Trump's "Mexico City Policy" or "Global Gag Rule"*, 8 February 2018,

In **Saudi Arabia**, the 2015 Law on Associations excludes any mention of “human rights” and extends wide discretionary powers to the Ministry of Social Affairs, including to deny licenses to new organizations and to disband them if deemed to be “harming national unity”. No independent human rights organizations have been able to register under the new law and several human rights defenders have been prosecuted for establishing human rights organizations. This of course has also affected women’s human rights groups, who have not been able to register and operate freely in the country. Instead, several women’s rights activists have been held in detention without charge or legal representation since 2018, and some were subjected to ill-treatment and sexual harassment.¹⁶⁰

Women’s groups have also been targeted in **Turkey**, amongst the widespread repression following the 2016 failed coup. For example, the Van Women’s Association (VAKAD) was one of the many organizations shut down by decree in November 2016, shortly before it was due to sign a contract with the European Union to run a project on preventing of violence against women in hard to reach communities.¹⁶¹

Burdensome registration requirements, restrictions on funding and other restrictions on activities based on vague notions of “national values”, “public morals”, and state sponsored ideology disproportionately affect marginalized groups and women. The Special Rapporteur on Freedom of Peaceful Assembly and Association, has thus called on states to “take positive measures to overcome specific challenges that confront marginalized groups, such as indigenous peoples, minorities, persons with disabilities, women and youth, in their efforts to form associations”.¹⁶²

5.3 LGBTI GROUPS

Civil society groups who defend the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people face serious challenges in many countries due to discrimination and criminalization of same-sex sexual acts. A global study by Outright International has found that of 194 countries reviewed, only 56% allow LGBTI organizations to register as such, while in 28% of countries LGBTI organizations are allowed to exist but without legally registering as such. In a further 15% of countries, there are no LGBTI organizations either registered or unregistered: groups may be forced operate “underground”. In countries where freedom of association is restricted for LGBTI groups, human rights defenders work with fewer resources and face more risks, and the communities they serve are therefore less protected.

In **Nigeria**, the draft NGO law of 2017 would impose burdensome administrative requirements on CSOs and concedes state authorities sweeping powers to limit their right to freedom of association.¹⁶³ There is concern that these would disproportionately affect LGBTI groups who are already criminalized under the Same Sex Marriage Prohibition Act of 2014, which penalizes the creation of gay clubs, societies and organizations. It would also make it even more challenging for LGBTI organizations to carry on with their work as a planned regulatory commission could deny registration of any organizations not acting in the “national interest”.¹⁶⁴

In **Mozambique**, registering organizations can be burdensome, especially with regard to the number of founding members and the documentation required.¹⁶⁵ In addition, associations can be denied registra-

160 Amnesty International, *Saudi Arabia: Release Women’s Human Rights Defenders Immediately!*, November 2018, <https://www.amnesty.org/en/latest/campaigns/2018/06/Saudi-Arabia-Release-Women-Human-Rights-Defenders/>

161 Amnesty International, *Weathering the storm. Defending human rights in Turkey’s climate of fear* (Index: EUR 44/8200/2018)

162 Report of the Special Rapporteur on the rights to freedom of peaceful assembly and association, Maina Kiai, UN Doc. A/HRC/26/29, April 2014

163 Amnesty International Nigeria, *NGO Bill Threatens Freedoms in Nigeria*, 12 December 2017, available at <https://www.amnesty.org/download/Documents/AFR4475902017ENGLISH.pdf>

164 Outright International, *The global state of LGBTIQ organising: the right to register*, 2018, https://www.outrightinternational.org/sites/default/files/CSOReportJuly2018_FINALWeb.pdf

165 JOINT and Civicus, Joint Submission to the UN Universal Periodic Review 24th Session of the UPR Working Group, June 2015, <http://www.civicus.org/images/UPR.NGOSubmissionOnMozambique.pdf>

tion based on vague concepts such as “public morals” and “public good”. Based on this, and despite the decriminalization of homosexuality in 2015, the Ministry of Justice has repeatedly rejected LGBTI group LAMBDA’s application for legal registration since 2008. Without official registration LAMBDA cannot access funding and tax exemptions.¹⁶⁶ The clause used to deny LAMBDA’s registration was finally struck down in October 2017 by the Mozambican Constitutional Council.¹⁶⁷

In **Malaysia**, where same-sex sexual acts are criminalized, NGO legislation allows the authorities to deny registration of any organization which is likely to “pursue unlawful purposes” or “go against public morals”.¹⁶⁸

In **Russia**, legislation such as the openly homophobic “Gay propaganda law”¹⁶⁹ not only restricts individuals’ right to freedom of expression, for example when it was used as a justification for banning Gay Pride parades, it also provides for the prosecution of individuals who run organizations carrying out advocacy, education, and support on sexuality, gender identity and sexual and reproductive health and rights. For example, Elena Klimova, who runs Children 404, a website offering support to LGBTI teenagers, has been prosecuted multiple times.¹⁷⁰ Evdokia Romanova, a human rights activist, was prosecuted simply for sharing news related to LGBTI issues on social media.¹⁷¹

In several Middle Eastern and North African countries, LGBTI groups’ freedom to associate is severely restricted.¹⁷² For example, in **Saudi Arabia**, the Law on Associations and Foundations, which was approved by the Council of Ministers in November 2015, makes it impossible for these groups to operate and no records of such groups exist.¹⁷³

5.4 ANTI-CORRUPTION GROUPS

In **Ukraine**, 2017 amendments to the Law on Preventing Corruption¹⁷⁴ imposed mandatory requirements to force anti-corruption activists to file yearly detailed personal financial and asset declarations, which the tax authorities can make public. Civil society groups complained that this discriminatory measure was only introduced as a form of retaliation against those who proposed these transparency measures for politicians and public officials. The authorities have failed to explain why the measures directed against anti-corruption activists are necessary. Failure to submit declarations can lead to criminal charges which carry prison sentences of up to two years. Both local activists and Ukraine’s international partners such as the EU have demanded that the discriminatory reporting requirements be dropped from the law. At the time of writing, however, they remain in force. In a separate case, the Prosecutor General’s Office of Ukraine opened a criminal case against NGOs Patients of Ukraine and The All-Ukrainian Network of People Living with HIV/AIDS for allegedly misusing foreign funds provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria, both

166 International lesbian, gay, bisexual, trans and intersex association, *State-sponsored homophobia. A world survey of sexual orientation laws: criminalisation, protection and recognition*, 2017, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf; Human Rights Watch, *Mozambique’s Double Speak on LGBT Rights*, 2016, <https://www.hrw.org/news/2016/01/25/dispatches-mozambiques-double-speak-lgbt-rights>

167 Global Voices, *After 10 Years of Legal Battles, Mozambique’s Only LGBT Organization Takes a Step Closer to Legal Recognition*, 28 November 2017, <https://globalvoices.org/2017/11/28/after-10-years-of-legal-battles-mozambiques-only-lgbt-organization-takes-a-step-closer-to-legal-recognition/>

168 Outright International, *The global state of LGBTIQ organising: the right to register*, 2018, https://www.outrightinternational.org/sites/default/files/CSOReportJuly2018_FINALWeb.pdf

169 Federal Law for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values of 2013

170 Amnesty International UK, *Russian journalist accused of anti-gay ‘propaganda’ defeats charges*, 2014, <https://www.amnesty.org.uk/russia-journalist-elena-klimova-lgbt-gay-propaganda>

171 Amnesty International, *Russia: Homophobic legislation used to persecute activist who shared LGBTI articles on Facebook* (News service, 18 October 2017)

172 Human Rights Watch, *Audacity in Adversity. LGBT Activism in the Middle East and North Africa*, 2018, <https://www.hrw.org/report/2018/04/16/audacity-adversity-lgbt-activism-middle-east-and-north-africa#>

173 International lesbian, gay, bisexual, trans and intersex association (ILGA), *State-sponsored homophobia. A world survey of sexual orientation laws: criminalisation, protection and recognition*, 2017, https://ilga.org/downloads/2017/ILGA_State_Sponsored_Homophobia_2017_WEB.pdf

174 Human Rights Watch, *Ukraine: New law targets anti-corruption activists, journalists*, 2017, <https://www.hrw.org/news/2017/04/05/ukraine-new-law-targets-anti-corruption-activists-journalists>

known for exposing corruption in the health care system and recommending measures to improve efficiency and better utilize public resources.¹⁷⁵

In **Guatemala**, the authorities have launched an open attack against the UN-sponsored International Commission against Impunity in Guatemala (CICIG) has contributed to efforts to investigate criminal networks and structures – and their links with state officials – and ensured that notable cases of corruption and human rights violations committed in the post-conflict era were brought to justice. However, at the end of August 2018, Guatemala’s President announced that the government would not renew CICIG’s mandate and in January 2019 President Jimmy Morales unilaterally terminated the agreement saying it was putting the country’s security at risk. The CICIG Commissioner, Iván Velásquez, was banned from entering the country and visas for several CICIG staff members were denied or revoked, among other repressive measures.¹⁷⁶

5.5 OUTLAWING FOREIGN “INFLUENCE”

In **China**, where the government views foreign organizations with suspicion, new legislation has been introduced to tightly control their activities. The Foreign NGO Management Law¹⁷⁷ imposes increased restrictions on foreign and domestic NGOs in terms of registration, reporting, banking, hiring requirements and fundraising. The Law particularly targets foreign NGOs to prevent them conducting “political activities” or activities deemed as “endangering national unity, national security or ethnic unity or harming China’s national interests and societal public interests”, without specifying what these activities are. It gives public security organs ample powers such as enabling them to summon NGO representatives for questioning; to conduct on-site inspections and to seize documents; to make inquiries into, and possibly request the freezing of bank accounts; to order the suspension of activities; withdraw registration certificates; and to list organizations as “unwelcome” if they are suspected of carrying out “illegal” activities. Public security organs can also order

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People attend a candlelight march for the late Chinese Nobel Peace Prize laureate Liu Xiaobo in Hong Kong. [2017]

175 Amnesty International, *Ukraine: Authorities must stop the harassment of anti-corruption activists and independent civil society organizations* (Index: EUR 50/7408/2017); International Federation for Human Rights (FIDH), *Ukraine: Stop Persecution of Anti-corruption Activists*, 9 November 2011, <https://www.fidh.org/en/issues/human-rights-defenders/ukraine-stop-persecution-of-anti-corruption-activists>

176 Amnesty International, *Justice under pressure* (Blog, 7 November 2018)

177 The full name of the law is “Law of the People’s Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China”

the detention of NGO staff and deport foreign staff without a right to appeal the decisions before an independent body.¹⁷⁸

Three UN Special Rapporteurs said of the Law: “the excessively broad and vague provisions, and administrative discretion given to the authorities in regulating the work of foreign NGOs, can be wielded as tools to intimidate, and even suppress, dissenting views and opinions in the country”.¹⁷⁹

The law contains severe consequences for those who exercise their rights to freedom of expression, peaceful assembly and association which existing laws and policies in China already sharply curtail. The authorities – particularly the police – have virtually unchecked powers to target NGOs, restrict their activities, and ultimately stifle civil society. The wide discretion granted to the police to oversee and manage the activities of foreign NGOs working with Chinese civil society increases the risk of the Law being misused to intimidate and prosecute human rights defenders and NGO staff.¹⁸⁰

NGO WORKERS IN CHINA

Amnesty International spoke with four local NGO staff in mainland China about their experience of the Foreign NGO Management Law. For security reasons, their affiliations have been withheld and the names used are pseudonyms.

Li Meinan (pseudonym), NGO worker from southern China

“The ... Law has had a huge impact on the organization I work for, at both partnership-building and financial level... my NGO refrained from starting a new project that involved potential foreign partners. Local partners are concerned about the sources of our funding as they do not want to get into trouble. For instance, lawyers hesitated to receive legal fees from us. Also, banks started to refuse to settle foreign exchange for funds received from foreign governments and asked for documents proving that the funding was legal. They asked us to discuss the details of our work with the relevant government departments. As a result, funding has decreased, and this impacts our capacity to carry out our work and we certainly cannot expand our work on issues that are still relatively new and seen as more sensitive. Many groups drop certain areas of work or lie about what they do in order to increase their chances of registration. This creates an environment of mistrust and negatively impacts our capacity to build coalitions. How do I know if the groups that comply with the government’s requirements are still my allies?”

Chen Qing (pseudonym), NGO worker from Guangdong

“My organization experienced harassment from various government departments ... I had to move to an apartment rented under another person’s name, which was discovered by state officials a week later ... We had to close the organization’s office in less than one year. Now we meet in a coffee shop or somewhere else every week. This has affected the recognition of our work, our co-operation with other activists, and made the staff – mostly women with young kids – feel more vulnerable to risks. After the law was introduced, we had to change our strategy: instead of focusing on advocacy and legal work, we focused more on coalition work with other groups that work on topics such as domestic violence and labour rights. Organizations that work on human rights and labour rights face more challenges than groups working on less sensitive topics such as environmental issues. To us, the... Law is like a sword hanging over our heads”.

178 United Nations Human Rights, Office of the High Commissioner, *China: Newly adopted foreign NGO law should be repealed, UN experts urge*, 2016, <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19921&LangID=E>

179 Ibid

180 Amnesty International, *China: Scrap Foreign NGO law aimed at choking civil society* (News service, 28 April 2016)

Amnesty International, *China: Human rights violations in the name of “national security”* (Index: ASA 17/8373/2018)

See also: Amnesty International, *China: Submission to the NPC standing committee’s legislative affairs commission on the second draft foreign non-governmental organizations management law* (Index: ASA 17/1776/2015)

Zhang Yi (pseudonym), NGO worker from southern China

“After the implementation of the Law, many international funders that financed the organizations focusing on advocacy work have not registered as required by the Law. Some have pulled out of China considering the legal risks involved. The funding support for advocacy-based NGOs is shrinking. The Law has had detrimental effects on the development of civil society in China, and the situation is irreversible in the foreseeable future”.

Zhao Leyin (pseudonym), NGO worker from Beijing

“Foreign NGOs working on human rights issues are the most affected by the Law. Some of them withdrew their operations from China and moved to Hong Kong. Foreign NGOs have to worry more about how to sustain their operations after the Law came into force. Giving more information to the Chinese government increases their risk and also the risk for their partners in mainland China. Many organizations in mainland China now have to find alternative sources of funding, such as commercial organizations, to act as intermediaries. Registration can also be very difficult: organizations working on sensitive topics cannot register, some have been waiting to know the outcome of their registration application for a long time, and some others that have successfully registered are very cautious and stopped supporting programmes that are considered sensitive by the Chinese government”.¹⁸¹

India’s 2010 Foreign Contributions Regulation Act was ostensibly introduced to address concerns about the risks to the “national interest” posed by foreign funding and foreign organizations.¹⁸² The Law lists individuals and organizations that are barred from receiving foreign funds; it requires licences to be renewed every five years and provides for suspension of licences and freezing of bank accounts during investigations. In practice, it has been used to target organizations who criticize the government and demand accountability. For example, groups who have criticized infrastructure and mining projects and those seeking justice for the anti-Muslim violence in Gujarat in 2002 faced repeated questions about their work, threats of investigations and blocking of foreign funding.¹⁸³

In 2014, an Intelligence Bureau report leaked to the press accused “foreign-funded” NGOs like Greenpeace, Cordaid, Amnesty International and ActionAid of “serving as tools for foreign policy interests of western governments”, of having a negative impact on the country’s economic development and of being part of a “growth-retarding campaign” to discredit India at international forums.¹⁸⁴ In 2016, the government cancelled the licences of thousands of NGOs for allegedly undertaking “activities not conducive to national interest”.¹⁸⁵

In October 2018, the Income Tax Department and Enforcement Directorate of the Indian Finance Ministry raided the offices of *The Quint*, a news website, and Greenpeace India. The Enforcement Directorate entered the Greenpeace offices without a warrant, questioned staff, searched documents and confiscated several documents and froze its accounts. As a result of the arbitrary freezing of its accounts, Greenpeace India announced in December 2018 that it will soon have to reduce its staff and scale back its work on climate change¹⁸⁶. The Solidarity Forum for Dissent, a “platform committed to the promotion of democratic rights of people and civil society organizations”, declared: “We consider this as not merely an attack on these

181 Interviews conducted in November 2018. For security reasons, the individuals concerned requested not to use their real names

182 This law intends “to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and for matters connected therewith or incidental thereto”, see Foreign Contribution (Regulation) Act, No. 42 of 2010, <https://indiacode.nic.in/bitstream/123456789/2098/1/201042.pdf>

183 Amnesty International India, *Suspension of human rights NGO’s foreign funding license must be revoked* (News service, 3 June 2016); Amnesty International India, *Rights activists at risk of detention on politically motivated charge*, 28 July 2015, <https://amnesty.org.in/news-update/rights-activists-risk-detention-politically-motivated-charges/>; Amnesty International India, *India: Curbs on Greenpeace India violate right to freedom of expression*, 10 April 2015, <https://amnesty.org.in/news-update/india-curbs-greenpeace-international-india-violate-right-freedom-expression/>

184 “Foreign-aided NGOs are actively stalling development, IB tells PMO in a report”, *The Indian Express*, 7 June 2014, <https://indianexpress.com/article/india/india-others/foreign-aided-ngos-are-actively-stalling-development-ib-tells-pmo-in-a-report/>

185 “Anti-national acts”: 25 NGOs lose foreign fund licenses, *The Times of India*, 5 November 2016, <https://timesofindia.indiatimes.com/india/Anti-national-acts-25-NGOs-lose-foreign-fund-licenses/articleshow/55254613.cms>

186 Greenpeace India, *Government crackdown forces Greenpeace India to cut back work on climate change*, 20 December 2018, <https://www.greenpeace.org/india/en/greenpeace/3283/government-crackdown-forces-greenpeace-india-to-cut-back-work-on-climate-change/>

organisations alone, but on civil society in general, media included. We note that those who are critical of the Government, as also those who are exposing and challenging human rights and environmental violations of certain corporations, are being targeted. We also note that those who work with and for advancing the rights of [...] Dalits, Adivasis, LGBT communities and women, are being systemically targeted as well, in such raids across India. Often, this has resulted in arrests of key activists and journalists”.¹⁸⁷ Weeks later, the Enforcement Directorate, an agency that investigates financial crimes, raided Amnesty International’s offices in India and froze its bank accounts. Soon after, a smear campaign was launched on social media and among pro-government sections of the media long opposed to the organization’s work. Some media outlets claimed to have accessed secret government documents which cast Amnesty International’s operations in India as a dark web of intrigue.¹⁸⁸

In **Russia**, the “Undesirable Organizations Law” of 2015¹⁸⁹ empowers the Prosecutor General or his deputies to declare a foreign or international organization “undesirable” if they deem their activities to represent a threat to the country’s “constitutional order, defence potential or state security”.¹⁹⁰ The Law imposes administrative and criminal penalties for those who participate in such activities, and has been used to gag dissenting voices, undermining freedom of expression and independent civil society organizations in Russia.¹⁹¹

Among the organizations classified as “undesirable” are several foundations that provide funding and support to civil society initiatives in Russia, including the US-based foundation National Endowment for Democracy.¹⁹² As a result, the MacArthur Foundation and several other donor organizations left the country for fear of being included on the list. This has further reduced funding opportunities in Russia - foreign donors must now use extra caution to avoid being put on the “undesirable” list, and at the same time, to ensure local NGOs are not targeted under the Foreign Agents legislation. The Law has increasingly been used to target NGOs and civil society activists for their alleged cooperation with organizations on the list, including by simply having hyperlinks to material from these “unwanted” organizations on their websites. Organizations who in 2017 have been the subject of proceedings on this basis have included the human rights organization SOVA Centre, the Centre for Independent Sociological Research and HIV/AIDS prevention organization the Andrey Rylkov Foundation.¹⁹³

In **Australia** two laws were passed during 2018 establishing measures to prevent foreign influence in elections and political decisions and the endangering of national security. The Foreign Influence Transparency Scheme Act 2018 obliges organizations undertaking activities on behalf of foreign organizations to disclose details of such activities and relationships, particularly during elections, and to make some of that information public. Civil society organizations were included in the draft law but were spared having to register under this scheme thanks to a last-minute amendment.¹⁹⁴ On the other hand, the National Security Legislation Amendment (Espionage and Foreign Interference) Act 2018 imposes criminal penalties for sharing what is broadly defined as “sensitive” information. While the legislation contains certain provisions to protect journalists, it does not contain safeguards to protect whistle-blowers who divulge information about human rights abuses or other information of public interest, nor for other human rights defenders or organizations who may discuss human rights concerns with representatives of foreign governments or international human rights mechanisms. By passing this draconian law, Australia is effectively criminalizing organizations which

187 Solidarity Forum for Dissent, *In solidarity with Greenpeace India, The Quint and The News Minute*, 15 October 2018, <http://www.esgindia.org/campaigns/press/solidarity-forum-dissent.html>

188 Amnesty International, *Amnesty India latest target of government crackdown* (News service, 26 October 2018); Amnesty International India, *Enforcement Directorate must cease smear campaign against Amnesty India*, 15 November 2018, <https://amnesty.org.in/news-update/enforcement-directorate-must-cease-smear-campaign-against-amnesty-india/>

189 Law on Amendments to Certain Legislative Acts of the Russian Federation, also known as Undesirable Organizations Law

190 Amnesty International, *Russia: Move to outlaw “undesirable” foreign organizations suffocates human rights* (News service, 8 July 2015). The list of organizations is available here: <http://minjust.ru/ru/activity/nko/unwanted>; Amnesty International, *Russia begins blacklisting “undesirable” organizations*, (News service, 28 July 2015)

191 Amnesty International, *Russia stepping up its onslaught on freedom of association* (Index: EUR 46/2223/2015)

192 “National Endowment for Democracy is first ‘undesirable’ NGO banned in Russia”, *The Guardian*, 28 July 2015, <https://www.theguardian.com/world/2015/jul/28/national-endowment-for-democracy-banned-russia>

193 Amnesty International, Annual Report 2017/2018 - Russian Federation entry (Index: POL 10/6700/2018)

194 Amnesty International Australia, *Passing of draconian laws throws Australian rights and freedoms under the bus*, 28 June 2018, <https://www.amnesty.org.au/passing-of-draconian-laws-throws-australian-rights-and-freedoms-under-the-bus/>

expose human rights violations or that share information with the UN, which is a key right protected by the UN Declaration on HRDs.

KELLY O'SHANASSY, AUSTRALIAN CONSERVATION FOUNDATION (AUSTRALIA)

“My organization has a handful of planned campaign activities which potentially come within the terms of the National Security Legislation Amendment (Espionage and Foreign Interference Law) Bill, so we are getting legal advice to understand whether and how we can pursue these activities... we planned to participate in the Conference of the Parties to the Convention on Biological Diversity, but now we are seeking advice to clarify whether any of our planned activities would present problems under the new Law. Any legislation which has the capacity to chill legitimate advocacy activities needs to be approached with the utmost care and that was clearly not the case with the National Security Legislation Amendment (Espionage and Foreign Interference Law) bill which was rushed and poorly consulted on. The process and the outcome were both concerning and disappointing”.¹⁹⁵

5.6 BANNING LEGITIMATE HUMAN RIGHTS WORK THROUGH CRIMINAL LAW

In **Iran**, civil society organizations' licences can be suspended or dissolved if they are deemed to have carried out “criminal” activities. Such activities include vague and overly broad offences such as: “violating Islamic principles and the foundation of the Islamic Republic”; spreading “anti-Islamic propaganda and disseminating damaging books and publications”; “any kind of communication, exchange of information, collusion and conspiracy with embassies, representatives, organs of governments and political parties of foreign countries, at any level and in any manner that may harm the freedom, sovereignty, national unity or interests of the Islamic Republic of Iran”; and “receiving any financial and logistical help from foreigners”.¹⁹⁶

Repressive legislation, including the Penal Code, has been used particularly since the mass protests that followed the 2009 disputed presidential election to silence human rights defenders and quash civil society organizations. Consequently, NGOs that focus on human rights have been forcibly closed down by the authorities and denied registration or operating permits. Among them have been the Centre for Human Rights Defenders, Human Rights Activists in Iran, the Association for the Rights of Prisoners, and the Committee for Human Rights Reporters. In many cases, their members and founders have been arrested and sentenced to imprisonment.¹⁹⁷

In **Bahrain**, terrorism-related legislation¹⁹⁸ containing an overly broad and vague definition of terrorism has been used to target civil society organizations and their activities, as well as individuals providing information to such organizations. The law states that “obstructing the public authorities in the exercise of their functions” and “damaging national unity” can be considered terrorist acts. Associations or groups that are deemed to “impede the provisions of the Constitution or the laws” are also labelled as “terrorist”. In 2014, legislative amendments granted the counterterrorism branch of the Office of Public Prosecution the power to hold suspects in detention without charges for up to six months.¹⁹⁹ The government has stripped members of civil society of their citizenship under counterterrorism legislation, such as Sayed Ahmed Alwadaei, advocacy director of the Bahrain Institute for Rights and Democracy, who noted: “By revoking the citizenships of

195 Interview with Kelly O'Shanassy, October 2018

196 Article 16 of the 1981 Law on political parties, societies, political and guild associations, and Islamic or recognized minority religious associations

197 Amnesty International, *Caught in a web of repression: Iran's human rights defenders under attack* (Index: 13/6446/2017)

198 Law No. 58 on the Protection of Society from Terrorist Acts of 2006

199 Decree of Act No. 68 of 2014 amending the 2006 law

peaceful figures and human rights activists alongside those of violent extremists, the Bahraini government is equating human rights defenders with violent terrorists”.²⁰⁰

Following the failed coup in July 2016, **Turkey** declared a state of emergency. The country’s judicial independence and rule of law were rapidly eroded and there was widespread suppression of freedom of expression and other human rights. Media outlets were silenced or closed, and journalists were imprisoned without trial. Those still free were subjected to mass trials, withdrawal of press cards and cancellation of their passports. Social networks were censored, and human rights defenders were targeted and arrested in one of the worst waves of repression of the last few decades in the country. Between July 2017 and July 2018 (when the state of emergency was lifted), 1,748 associations and foundations were summarily closed down by seven executive decrees for alleged “membership, affiliation, allegiance, connection, or links to either terrorist organisations or groups, structures, or entities deemed to be a threat to national security by the National Security Council” without individualised justifications or the possibility to appeal the decision. The decrees allowed the permanent closure of all the associations and foundations on the list, including dozens of national and local human rights organizations, women’s rights organizations, local cultural associations, associations providing support to people in poverty, students and business associations and even sports clubs. All assets of the associations were transferred to the Treasury, including the deeds for any premises. Only a fraction of these associations and foundations were later allowed to reopen through executive decrees after the state of emergency was lifted.²⁰¹

In **Nicaragua**, following widespread protests in April 2018, the government has adopted a strategy of repression and committed human rights violations, including excessive use of force against peaceful protesters, criminalization of human rights defenders, attacks on media, and banning demonstrations.²⁰² In December 2018, the police denied long-established Nicaraguan Human Rights Centre (CENIDH) permission to demonstrate to mark Human Rights Day. A few days later the National Assembly decided to withdraw the organization’s legal personality, alleging that it had failed to comply with administrative requirements, and had attempted to destabilize the country.²⁰³ No evidence substantiating the allegations was made public at the time. The decision was based on 1992 legislation,²⁰⁴ which allows for such measures if non-profit organizations act illegally, or breach public order, amongst other grounds. According to CENIDH, the organization was not allowed to defend itself from the accusations, in breach of procedures in place.²⁰⁵ In the following days, the police raided CENIDH’s office without presenting a warrant, seizing files and computers.²⁰⁶ Several other NGOs dealing with human rights, transparency and democracy have faced similar sanctions.²⁰⁷

200 Americans for Democracy & Human Rights in Bahrain, *HRC32: ADHRB calls attention to citizenship revocation in Bahrain*, 14 June 2016, <https://www.adhrb.org/2016/06/hrc32-adhrb-highlights-crackdown-civil-society-bahrain/>

201 Amnesty International, *Turkey permanently closes hundreds of NGOs* (Index: EUR 44/5208/2016); Amnesty International, *Weathering the storm. Defending human rights in Turkey’s climate of fear* (Index: EUR 44/8200/2018)

202 Amnesty International, *Shoot to kill. Nicaragua’s strategy to repress protest* (Index: AMR 43/8470/2018); Amnesty International, *Instilling terror: from lethal force to persecution in Nicaragua* (Index: AMR 43/9213/2018); CIDH, *Palabras del Secretario Ejecutivo de la Comisión Interamericana de Derechos Humanos, Paulo Abrão, ante el Consejo Permanente de la OEA*, 19 October 2018, <http://www.oas.org/es/cidh/actividades/discursos/2018.10.19.asp>

203 Organización de los Estados Americanos, *CIDH condena la cancelación de la personalidad jurídica de organizaciones de derechos humanos en Nicaragua*, 13 December 2018, <http://www.oas.org/es/cidh/prensa/comunicados/2018/265.asp>; Hoy!, *Asamblea Nacional de Nicaragua cancela personalidad jurídica al Cénidh*, 12 December 2018, <http://www.hoy.com.ni/2018/12/12/asamblea-nacional-de-nicaragua-cancela-personalidad-juridica-al-cenidh/>

204 Ley General sobre Personas Jurídicas sin Fines de Lucro – Ley 147 of 1992, [http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28\\$All%29/F16E39766C5C7AFE062570A100577C41?OpenDocument](http://legislacion.asamblea.gob.ni/Normaweb.nsf/%28$All%29/F16E39766C5C7AFE062570A100577C41?OpenDocument)

205 Nicaraguan Human Rights Centre (CENIDH), *Cénidh rechaza cancelación de su personalidad jurídica*, 12 December 2018, <https://www.cenidh.org/noticias/1126/>

206 El Nuevo Diario, *ONG denuncia ilegalidad en allanamientos*, 15 December 2018, <https://www.elnuevodiario.com.ni/nacionales/481529-ong-denuncia-ilegalidad-allanamientos-nicaragua>

207 WOLA, *Repression of non-profit groups in Nicaragua is arbitrary and baseless*, 12 December 2018, <https://www.wola.org/2018/12/repression-of-non-profit-groups-in-nicaragua-is-arbitrary-and-baseless/>; Cénidh condena las cancelaciones de las personalidades jurídicas a cinco organizaciones civiles sin fines de lucro de Nicaragua, 13 December 2018, <https://www.cenidh.org/noticias/1127/>

6. RECOMMENDATIONS

Over the last two years, almost 40 pieces of legislation have been either put in place or are in the pipeline restricting the activities, resources and autonomy of civil society organizations in all regions of the world by excluding them from sources of national, foreign and international funding, and by imposing unreasonably stringent requirements to register and operate. This shows an alarming global trend that has surfaced over the last decade in which those in power have acquired sweeping powers to control, ban and criminalize certain activities in a discriminatory manner and without legitimate reasons, as well as to target those who oppose government policies or who defend marginalized groups.

As the global assault on human rights defenders and civil society organizations reaches crisis point, Amnesty International is making the following recommendations to states, and to regional and international human rights bodies, urging them to take all necessary measures to ensure that the space for civil society is open and protected, and that human rights defenders and civil society organizations can operate freely and safely within it. Justice, dignity and equality can only be realized when individuals and groups are empowered to organize, advocate, agitate and act for human rights.

AMNESTY INTERNATIONAL CALLS ON STATES TO:

- Reaffirm the right of every person, individually or in association with others, to defend and promote human rights in accordance with the Declaration on HRDs.
- Ensure that the right to freedom of association is enjoyed by everyone without discrimination and offer protection to both registered or unregistered entities.
- Adopt or amend laws to guarantee the right to freedom of association and ensure that these are discussed in consultation with human rights defenders and civil society organizations.
- Ensure that no one is criminalized for exercising the right to freedom of association, nor subjected to threats, attacks, harassment, smear campaigns, intimidation or reprisals for their human rights work.
- Immediately and unconditionally release all prisoners of conscience who have been imprisoned solely for peacefully exercising their human rights, including the right to association.
- Repeal or substantially amend legislation and regulations that require associations to obtain prior authorization for registration as a legal entity, and provide simple, accessible, non-burdensome, non-discriminatory notification processes which are either affordable or free of charge.
- Legally recognize unregistered associations and ensure they are able to carry out their activities in an enabling and safe environment, and that their members are not subjected to criminal sanctions due to lack of registration.
- Ensure the rights to freedom of expression and association for civil society organizations and human rights defenders, and that their members and activities are not restricted on vague or discriminatory grounds such as “political activities” or “traditional values”.
- Take all necessary measures to ensure that marginalized groups can freely exercise their right to association and ensure they can, among other things, conform civil society organizations without discrimination.

- Ensure that organizations that defend the rights of marginalized and discriminated groups are not targeted for their activities or their identity.
- Ensure women human rights defenders are able to exercise their right to freedom of association, by removing barriers such as gender inequality, discriminatory practices and laws, and ensure they have equal access to resources.
- Ensure that registration of associations or other administrative procedures do not invade the privacy of organizations and their members.
- Guarantee in law and practice the right of associations to seek, receive and utilize funding from national, foreign and international sources without prior authorization or undue interference.
- Allocate funds in way that is non-discriminatory and ensure that organizations that hold different views from the government or that work for the rights of marginalized groups can access funds in an equal basis than those organizations that align with government policies.
- Amend provisions restricting the right to freedom of association of foreign nationals by removing the time limit on their registration and renewal requirements, and align any other requirements to operate foreign associations on a par with national associations.
- Allow associations to freely determine their statutes, structure and activities and to make decisions without state interference.
- Ensure that all suspensions or dissolution of associations are only conducted after an order issued by an impartial and independent court, in compliance with international human rights law and standards.
- Ensure that administrative and reporting requirements are not arbitrary or discriminatory, and are respectful of the right to privacy of associations and their members.
- Guarantee an effective remedy for human rights defenders and civil society organizations that allege a violation to their right to association including, when appropriate, adequate reparations.
- Repeal or substantially amend anti-terror laws and other related legislation in order to bring them into full conformity with international law and standards, including by adopting a definition of terrorism that does not infringe the peaceful exercise of human rights.
- Publicly acknowledge the importance of civil society organizations and human rights defenders and their contribution to the advancement of human rights, including by carrying out public awareness campaigns of the Declaration on HRDs and the important role played by human rights defenders.
- Publicly condemn attacks, threats and intimidation against civil society organizations and human rights defenders.
- Refrain from feeding negative narratives concerning civil society organizations and human rights defenders, and describing them in language which stigmatizes, abuses, disparages or discriminates.

AMNESTY INTERNATIONAL URGES INTERNATIONAL AND REGIONAL BODIES TO:

- Ensure that civil society organizations and human rights defenders are protected and enabled to carry out their activities, including by:
 - Holding states accountable for not complying with their human rights obligations.
 - Putting pressure on states to repeal or substantially amend restrictive legislation that infringes the right to freedom of association and imposes undue restrictions on the work of human rights defenders and civil society organizations.
 - Monitoring the implementation of states' obligations with regard to ensuring the right to freedom of association and the protection of human rights defenders.
 - Publicly affirming the legitimate and crucial role of the work carried out by civil society organizations and human rights defenders.
 - Strengthening existing mechanisms and/or putting in place new mechanisms to prevent and address acts of intimidation or reprisals against human rights defenders who communicate and interact with international and regional mechanisms and take all measures to ensure that any crucial information provided by such actors does not place them at risk.
 - Ensuring that civil society organizations and human rights defenders have access, without discrimination, to equal opportunities to seek and receive funding from national, foreign and international sources.

TABLE: RELEVANT LEGISLATION AND MAIN CONCERNS

	Country	Legislation	Main issues and concerns	In this report
Africa	Burundi	Law no 1/01 on the framework of cooperation between the Republic of Burundi and foreign NGOs (2017)	Obstacles to registration Restrictions to foreign funding State authorities' sweeping powers over organizations	pp. 15,23
		Law no. 1/02 on the framework of non-profit associations (2017)		
	Chad	Amendment to Ordinance no.023/PR/2018 (2018)	Undue restrictions on the right to freedom of association	p.17
	Democratic Republic of Congo	Draft Bill on Non-Profit Organizations (2017)	Obstacles to registration	p.11
	Equatorial Guinea	General Law on Associations (1992) and Law on NGOs (1999)	Obstacles to registration Burdensome administrative and reporting requirements State authorities' sweeping powers over organizations	pp.11, 15-16, 20
	Ethiopia	Charities and Societies Proclamation (2009)	Restrictions to foreign funding State authorities' sweeping powers over organizations	
	Malawi	Draft amendment to NGO Policy (2017)	Obstacles to registration Restrictions to foreign funding	p.18
		NGO Amendment Bill (2018)	State authorities' sweeping powers over organizations	
	Mauritania	Law No. 64.098 (1964) and its amendments Law 73.007 and Law No. 73.157 (1973)	Obstacles to registration State authorities' sweeping powers over organizations	p.16
		Law No. 73.008 (1973) on public assemblies and its decree of implementation Decree No. 73.060 (1973)		
	Mozambique	Law on Associations (1991)	Obstacles to registration	pp. 29-30
	Nigeria	Draft Bill to Regulate the Acceptance and Utilization of Financial/Material Contributions of Donor Agencies to Voluntary Organizations ("NGO Regulation Bill") (2014)	Restrictions to foreign funding	
		Draft HR585 Bill (NGO Bill) (2017)	State authorities' sweeping powers over organizations	p.29
Sierra Leone	Amendments to NGO Regulations (2017)	Obstacles to registration Burdensome administrative and reporting requirements State authorities' sweeping powers over organizations	p.16	

	Country	Legislation	Main issues and concerns	In this report
Africa (continued)	Uganda	Non-Governmental Organisations Act (2016)	State authorities' sweeping powers over organizations	p.17
		NGO Regulations (2017)	Obstacles to registration	
	Zambia	NGO Act (2009)	State authorities' sweeping powers over organizations	
Americas	Bolivia	Law No. 351 on Legal Personalities (2013) Supreme Decree 1597, Partial regulation of the law for granting legal entity (2013)	State authorities' sweeping powers over organizations Undue restrictions on the right to freedom of association	p.17
	Cuba	Law 54: Law on Associations (1985)	Obstacles to registration	p.11
	Ecuador	Executive Decree 16 (2013) and Decree 739 (2015) both derogated and replaced by decree 193 (2017)	State authorities' sweeping powers over organizations	
	Guatemala	Draft Law 5257 (2017)	Obstacles to registration	pp. 11-12
	Nicaragua	General Law no 147 on non-profit legal personality (1992)	State authorities' sweeping powers over organizations	p.36
	USA	Mexico City Policy (2017)	Restriction to organizations providing sexual and reproductive health services	p.28
	Venezuela	Law for the Defence of Political Sovereignty and National Self-Determination (2010)	State authorities' sweeping powers over organizations Undue restrictions on the right to freedom of association	
Asia and the Pacific	Afghanistan	Law on non-governmental organisations (2005)	Obstacles to registration Burdensome administrative and reporting requirements	p.9
		Law on Associations (2013, amended 2017)	Obstacles to registration Undue restrictions on the right to freedom of association	
	Australia	Border Force Act (2015)	Criminalization of groups working on refugees' and migrants' rights	p.27
		Foreign Influence Transparency Scheme Act (2018)	Undue restrictions on the right to freedom of association	pp. 34-35
		National Security Legislation Amendment (Espionage and Foreign Interference) Act (2018)		
	Cambodia	Law on Associations and NGOs (2015)	Obstacles to registration Burdensome administrative and reporting requirements	p.9
China	Law of the People's Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China (2017)	Restrictions to foreign funding Obstacles to registration Undue restrictions on the right to freedom of association, including on their activities State authorities' sweeping powers over organizations	pp. 31-33	

	Country	Legislation	Main issues and concerns	In this report
Asia and the Pacific (continued)	India	Foreign Contribution (Regulation) Act (2010)	Restrictions to foreign funding Obstacles to registration State authorities' sweeping powers over organizations Undue restrictions on the right to freedom of association	pp. 33-34
	Indonesia	Law on mass organisations (2013)	Undue restrictions on the right to freedom of association	p.17
		Amendments to Law on mass organizations (2017)		
	Laos	Decree on Associations (2017)	Obstacles to registration Burdensome administrative and reporting requirements State authorities' sweeping powers over organizations	pp. 9, 17
	Malaysia	Societies Act (1966)	State authorities' sweeping powers over organizations Obstacles to registration	pp. 9-10, 30
	Myanmar	Association Registration Law (2014)	State authorities' sweeping powers over organizations Obstacles to registration	
		Draft International Non-Governmental Organizations Law (2017)	State authorities' sweeping powers over organizations Burdensome administrative and reporting requirements	
	Mongolia	Draft Law on non-profit organizations (2018)	State authorities' sweeping powers over organizations	
	Nepal	Constitution of Nepal (2015)	State authorities' sweeping powers over organizations	p.18
		Draft Social Welfare and Development Bill (2016)		
		Draft National Integrity Policy (2017)		
Pakistan	Policy for the regulation of International Non-Governmental Organizations (2015)	Obstacles to registration Burdensome administrative and reporting requirements State authorities' sweeping powers over organizations	pp. 13-14	
Europe	Azerbaijan	Amendments to NGO Law (2009, 2013, 2014)	Obstacles to registration State authorities' sweeping powers over organizations Restrictions to foreign funding	pp. 12-13, 22
	Belarus	Amendment to Law on Associations (2011)	Obstacles to registration State authorities' sweeping powers over organizations Criminalization of those acting on behalf of unregistered organizations	pp. 8, 24
		Amendment to Administrative Code (2011)	Restrictions to foreign funding	p.22
		Amendment to the Criminal Code (2011)	Criminalization of those receiving any foreign grants or donations	pp.8
		Presidential Decree n.5 on Foreign Gratuitous Aid (2015)	Restrictions to foreign funding Burdensome administrative and reporting requirements State authorities' sweeping powers over organizations	p.22

	Country	Legislation	Main issues and concerns	In this report
Europe (continued)	Bosnia	Draft NGO Law (2015)	Restrictions to foreign funding	p.22
	Hungary	Law on the Transparency of Organisations Supported from Abroad (2017)	Restrictions to foreign funding Burdensome administrative and reporting requirements	p.24
		LexNGO2018 (2018) (package amending 9 laws, also known as “Stop Soros package”)	Criminalization of groups working on refugees’ and migrants’ rights	pp. 25-27
		Tax legislation (2018)	Criminalization of groups working on refugees’ and migrants’ rights	p 27
	Ireland	Amendment to Electoral Act (2001)	Restrictions to foreign funding	p.23
	Kazakhstan	Amendments to Law on Non-Profit Organisations (2015)	State authorities’ sweeping powers over organizations Burdensome administrative and reporting requirements	p.13
		Amendments to tax code (2016)	Burdensome administrative and reporting requirements Restrictions to foreign funding	p.22
	Moldova	Amendments to draft on NGOs Law (2017)	Burdensome administrative and reporting requirements	pp. 17-18
	Poland	National Freedom Institute Act (2017)	State authorities’ sweeping powers over organizations	p.20
		Draft Law on Transparency of Public Life (2017)	Burdensome administrative and reporting requirements	p.17
	Romania	Draft Law 140/2017 on Associations and Foundations (2017)	Burdensome administrative and reporting requirements	p.17
		Draft Amendment to Government Ordinance No. 26/2000 (2018)		
		Law on the Prevention and Control of Money Laundering and Terrorist Financing (2018)	Burdensome administrative and reporting requirements	
	Russia	On Amendments to Legislative Acts of the Russian Federation regarding the Regulation of the Activities of Non-profit Organisations Performing the Functions of a Foreign Agent (also known as Foreign Agents Law) (2012)	Restrictions to foreign funding Undue restrictions on the right to freedom of association, including on their activities	pp. 20-22
		Federal Law for the Purpose of Protecting Children from Information Advocating for a Denial of Traditional Family Values (2013)	Criminalization of LGBTI groups	p.30

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		Law No. 58 on the Protection of Society from Terrorist Acts (2006)	Undue restrictions on the right to freedom of association, including on their activities	p.35
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LAWS DESIGNED TO SILENCE:

THE GLOBAL CRACKDOWN ON CIVIL SOCIETY ORGANIZATIONS

Civil society organizations and human rights defenders around the world who speak out against unjust laws and government practices, challenge public opinion or those in power, and demand justice, dignity and freedom, are being increasingly targeted. They are facing smear campaigns and harassment, and are prosecuted on spurious charges, arbitrarily detained, physically attacked and even killed or forcibly disappeared simply for the work they do.

In this context, an alarming global trend has surfaced in which states are introducing and using laws to interfere with the right to freedom of association and to hamper the work of civil society organizations and individuals who participate in them. The pace is accelerating: in the last two years alone, almost 40 pieces of legislation have been either put in place or are in the pipeline. Various provisions impose barriers at all stages of these organizations' existence and allow the authorities to closely monitor and obstruct them, particularly at the point of registration, but also when they plan, conduct and report on their activities, when they seek and receive funds, and when they carry out public campaigning and advocacy.

According to Amnesty International's research, at least 50 countries around the world have put in place such laws in recent years. Restrictive legislation reflects the broader current political and cultural trends in which toxic narratives demonize "the other" and breed blame, hatred and fear, creating a fertile ground for the enactment of such laws; and justifying them in the interests of national security, identity and traditional values. In practice, these laws are used to silence critical and diverse views and opinions and inhibit the ability of organizations and individuals to scrutinize and challenge governments and defend human rights.

The report shows how this phenomenon is widespread and increasing in all regions. It puts forward a set of recommendations to governments and other stakeholders to ensure that the rights to defend human rights, including crucially the right to association, is enjoyed by everyone without discrimination.

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