

# the shrinking space for civil society

philanthropic perspectives from across the globe

democracy  
civic rights  
operating environments



EFC  
POLICY AND  
PROGRAMMES

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# Foreword

## Pushing back against the shrinking space for civil society

Ewa Kulik-Bielińska, Executive Director, Stefan Batory Foundation and Chair of the European Foundation Centre

The shrinking space for civil society and reported violations of fundamental and democratic rights are a global phenomenon. Foundations have reported problematic laws in Algeria, China, Columbia, Egypt, Ethiopia, India, Russia, Syria and Zimbabwe, just to name a few.

And EU countries are hardly immune. Of serious concern have been ongoing challenges to civic rights in Hungary, UK surveillance programmes, anti-protest laws in Spain, counterterrorism measures in France, and attacks in my own country, Poland, on the freedom of public media and the independence of the judiciary.

To add insight to this critical issue, we asked a group of EFC members working across the globe to share their thoughts on and experience of the shrinking space for civil society. This publication signals the EFC's ambition to scan the

landscape on developments important to our members in an effort to contribute intelligence and capture the experience of foundations to make sense of the increasingly complex and interconnected world in which we all live.

Rather than providing an empirical study, we felt that first-hand accounts from foundations operating in affected countries would give us a better understanding of the nature of the shrinking space problem and offer fresh ideas on possible ways out. These clues and forecasting from foundations are particularly valuable as these organisations, due to their funding practice and policy work, are often ahead of the curve in terms of what's happening on the ground.

As highlighted in these pages, government motivations for restricting civic space differ: national security arguments and a focus on counterterrorism policies; economic interests; fear of a strong civil society; and "aid effectiveness" arguments by recipient governments of development aid are some of the motivations that have been identified. National sovereignty arguments are also used specifically to control or block foreign funding.

Fuelling the problem in some countries is the sense among citizens of disappointment with inept governments which cannot



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Bielińska was also the initiator and founder of the Polish Donors Forum where she served as Chair for two concurrent terms, and is currently a member of the Working Group at the Chancellery of the President of Poland's task force on an enabling fiscal and legal environment. She has also been honoured with the medal of the Minister of Education, the Minister of Culture's award for promotion of free speech and the Order of Poland Restored.

deliver the promise of democracy and solve economic problems.

And it's not just governments that are to blame. Self-censorship combined with a lack of courage on the part of NGOs and foundations, especially in Europe, is causing them to assume that they cannot act when in fact they can. In this way we are shrinking our own space, doing serious damage to the agency and self-confidence of our sector.

But how can we counter these worrying trends and what role can foundations play in this scenario? From strengthening counter-narratives to developing more resilience, much can be done. A guide recently published by Ariadne, the EFC and IHRFG (International Human Rights Funders Group) lists seven levers that foundations can use to make a difference: "Challenging the closing space for civil society - A practical starting point for funders", offers a practical complement to the perspectives in this publication, and is available on the EFC website.

The EFC encourages foundations and other philanthropic organisations to work collaboratively with each other and with other stakeholders to further strengthen the case for an enabling environment for civil society. And, not least, to have the courage to act.

**How can we counter these worrying trends and what role can foundations play in this scenario? From strengthening counter-narratives to developing more resilience, much can be done.**



# Challenges for civil society in Latin America

Sean McKaughan, Board Chair, Fundación Avina

The degree to which civil society can express itself and act freely is a good indicator of democratic consolidation. When that action space is restricted, democracy is restricted. Avina operates in 21 countries in Latin America, and although it is a diverse region, many countries are seeing a growing number of obstacles that hamper civil society organisations and social movements.

Some of these obstacles are historical, but others stem from new practices or democratic erosion seen in recent years. This occurs in a context of generally weak public institutions and official resistance to the adoption of participatory tools other than elections.

Current restrictive practices toward social organisations and an independent civil society arise from two trends in Latin America:

**Authoritarian progressivism** - The majority of Latin American countries saw democracy emerge following military dictatorships that restricted human rights across the board. Speaking broadly, since the 1980s democratic governments of different ideological orientations have taken their turn in power. In the 1990s and early 2000s, centre-right administrations tolerated but largely ignored civic organisations and maintained checks on the access of social movements to public spaces. In the last decade, several left of centre and or populist governments emerged from civil society to take power democratically with a progressive agenda. Unfortunately, the expected golden era for civil society in these countries has not materialised, as some of these governments implemented progressive public policies by adopting authoritarian practices and eliminating democratic checks and balances. Wrapped in the mantle of progressive objectives, some governments operate with impunity and limit government access to a small group of carefully chosen friends and supporters. This approach has significantly curtailed the ability of civil society in these countries to maintain its influence, access and dialogue with government.

**State monopoly** - Governments that claim to lead the social agenda often ignore or even compete with social organisations. Far from valuing them, public officials often perceive



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since 1998. Prior to his current role as Chairman of Fundación Avina's board of directors, Mr McKaughan led Avina's international executive team for seven years. He became director of international operations in 2006, and was tapped as Chief Executive Officer in 2007. During his time at Avina, Mr McKaughan has been a champion for inclusive business, efforts to combat deforestation, social innovation networks, and the promotion of sustainability in Latin America and throughout the world. He also

serves on the boards of Avina Americas, World Transforming Technologies (WTT), and the Lozano Long Institute of Latin American Studies at the University of Texas.

Mr McKaughan holds master's degrees in both Urban Planning and Latin American Studies from the University of Texas. He is married with two children and divides his time between Rio de Janeiro and Austin, Texas.

independent civil society organisations as competitors or adversaries at odds with government aspirations to control power and take credit for social progress. As the state establishes a monopoly on the promotion of progressive social policies, it begins to undermine the legitimacy of respected citizen organisations. The result is a shrinking capacity of civil society to operate as an independent public forum where alternative ideas and perspectives are considered.

The combination of these two trends has led to some government actions that increasingly restrict the activities of civil society in many Latin American countries. What follows are some examples:

- Public resources co-opt organisations, often converting entities that provide support to government programmes into parallel ministries. At the same time, those organisations that do not participate become marginalised. The incentive structure is clear: no public resources for the independent-minded, conditional transfers for those trying to demonstrate loyalty, and blank checks for friends and allies.
  - Governments resist calls to regulate the civil society sector and ensure a clear legal, tax and labour framework. Many citizen institutions operate in some degree of informality, unable
- to obtain legal status or meet the requirements of an uneven and contradictory patchwork of regulations. Conversely, fiscal incentives to promote philanthropic culture are rare, difficult to achieve and often reserved for insiders. Private donations are often heavily taxed. Elected leaders and public institutions opposed to an independent civil society have little incentive to clarify the regulatory framework since informality and regulatory uncertainty offer a variety of options for selective enforcement. As a result, the legal framework for civil society organisations in Latin America generally suffers from multiple operational obstacles and enjoys few incentives.
- In cases where civil society organisations expose or denounce government actions, the abuse of power can be more severe. The important role of an independent civil monitor to encourage public accountability often clashes with the goal of state power monopolies. Rather than protect such advocates, government institutions often perceive them as threats and seek to crush them with the full weight of regulatory bureaucracy. In some cases, harassment can extend to domestic spying and infiltration by members of the police or security agencies.

# Sadly, the retreat of international philanthropy from Latin America has exacerbated the erosion of civil society.

- When an executive branch attempts to reduce the powers of an independent judiciary, it is a clear sign of a move towards authoritarianism. A constitutional system is only as strong as its system of checks and balances, public accountability and citizen participation. The corruption scandal that has played out in Brazil and the one that led to new elections in Guatemala represent encouraging examples of constitutional and civil systems of checks and balances at work. Where these constitutional checks have failed, the space for civil society deteriorates.
- Another sure sign of an anti-democratic turn by an elected government is its attack on freedom of expression and access to public information. A number of governments in Latin America have moved against independent media over the past five years, while at the same time rewarding media outlets that broadcast official propaganda, often with public funds. In a few countries of the region, only the government-sponsored press organisations can operate effectively.

Sadly, the retreat of international philanthropy from Latin America has exacerbated the erosion of civil society. Over the past ten years, foundations and international agencies have largely

pulled back from Latin America, leaving once strong civil society organisations increasingly dependent on government funds, and especially vulnerable to the tactics of coercion and abuse of power. With few exceptions, local private philanthropy has failed to fill the gap. The biggest philanthropic organisations in Latin America tend to be associated with private sector companies that often seek to avoid risk. In fact, grantmaking to independent civil society organisations has decreased as local philanthropists by and large prefer to operate their own projects, contracting other organisations as service providers, if at all.

There are, however, exciting counter-examples to these trends. Many civil society organisations have had success in enshrining public participation and public access in official government policy at the local, provincial and federal level. A number of enlightened municipalities have led the way in introducing civil involvement, public accountability and new public goods. However, these heroic efforts face a stiff headwind as new political and economic realities destabilise the civil society space built over decades. As the space for organised civil society collapses, chaotic large-scale public protest and street confrontations offer the primary alternative for concerned citizens.



# Appealing to the enlightened self-interest of partners to reinforce civil society

Adam Pickering, International Policy Manager, Giving Thought, Charities Aid Foundation



Adam Pickering is International Policy Manager for Charities Aid Foundation (CAF), a leading international civil society organisation that seeks to create an enabling environment for the development of civil society through the provision of philanthropy advice and services, and through advocacy. Mr Pickering is responsible for developing

global policy positions for CAF and writes and speaks widely on global trends in philanthropy and the legal environment for CSOs and donors. He is currently leading the Future World Giving project, which seeks to create a policy framework that will help governments seize the potential for rapidly growing middle class populations to engage in philanthropy.

The closing space for civil society is affecting the Charities Aid Foundation's (CAF) global programme, either by restricting our activities as a funder of civil society or by limiting our own advocacy activities.

CAF occupies an unusual position in global civil society. We provide financial services and advice for charities and donors at all levels

and conduct research and advocacy with the aim of creating a more enabling environment for civil society around the world. We often describe ourselves as "cause neutral" but that is a slight mischaracterisation of our mission. Rather, all of our activities are in pursuit of one overarching goal: to create a world in which people and businesses are able to give easily and effectively to causes that reflect the diverse needs, aspirations and interests of society. To that extent, "cause neutrality" means that we are interested in and passionate about all legitimate public-benefit causes. As such, our interest in addressing the closing space for civil society stems both from direct operational concerns and also from broader concerns about threats to our overarching mission.



The breadth of this mission sees us interact with every part of every sector. From this vantage point the differing perceptions of the closing space for civil society are striking. In short, those funders and CSOs that are directly being affected by the issue - often human rights defenders, environmental campaigners or those advocating for marginalised groups in society - are mobilising while others, including much of the rest of civil society, continue to see the issue as marginal. This, in our view, is a dangerous miscalculation.

The closing space for civil society should be a concern to everyone, and those of us who have the ability to broaden the knowledge base of influential partners have a duty to raise awareness. Partners may think that the silencing of environmental and human rights campaigners has little relevance to their interests. Some outside of civil society may even think that this suppressing of criticism actually

creates a more enabling environment for investment, free from the onerous scrutiny of activists. However, in the long run, the shrinking of civic space damages social cohesion, and undermines the systems of accountability and the rule of law that create an enabling and sustainable environment for all legitimate interests.

#### [Corporations](#)

Several forces seem to be driving a new, more limited consensus as to what civil society organisations are for and what they should do. The current global political economy is characterised by competition for business and investment. As governments strive to create stable environments that are attractive to business, they make assumptions about the interests of companies which are used to inform policymaking. This results in some progressive policies, but also in a broad range of regressive measures, including subduing media and civil society criticism,

reducing environmental regulation and land laws, and relaxing labour laws or breaking unionism. Ironically, many companies are of the view that these policies are not necessarily good for business in the long term. It is up to those of us that work with businesses to make the case for solidarity between the private sector and civil society that is motivated by enlightened self-interest.

Economic instability, an erosion of trust in public and private institutions, gaps in governance, climate change, youth unemployment, rampant inequality and the rise of sectarianism, populism, nationalism and statism all form part of the “new global context” which was discussed at this year’s World Economic Forum.<sup>1</sup> The fact that business leaders increasingly recognise that these issues threaten to undermine their interests presents an opportunity for civil society to find powerful advocates in the corporate community. Civil society’s capacity to ameliorate the effects of, and advocate for reforms that address the drivers of the above problems should make it a fundamental part of the enabling environment for business. We need to work with private companies to ensure that they understand that even when civil society stands in the way of their short-term interests, they are vital to their long-term sustainability. We might find that business is more amenable to this idea than many assume.

Take the recent case of Tiffany & Co, Brilliant Earth and Leber Jeweler Inc. who, alongside human rights charities, recently called on the Angolan government<sup>2</sup> to

drop the prosecution of a journalist who uncovered human rights abuses in Angola’s diamond fields. Their co-signed letter stated that “vital investigations into human rights abuses should not be impeded by the threat of jail” and called for “standards of international law” to be applied. Where in the past companies might have engaged in wholly profit-motivated lobbying with one hand, while giving back to society through their CSR department with the other, many – as Mauricio Lazala, Deputy Director, Business & Human Rights Resource Centre points out<sup>3</sup> – now take a more long-term approach. This is a trend that we have a duty to cultivate. Working with corporate clients must mean mutual improvement of practices where all parties seek to influence one another positively.

#### Politicians

There is no doubting that governments are faced with an unprecedented volume of competing demands in the current global context. Delivering economic growth while maintaining the rule of law, in an environment where state sovereignty is being undercut by globalisation of business and information flows, is extremely challenging. In many nations formal, organised civil society may seem to governments like an import that has travelled on a wave of foreign capital. Equally, the spread of ideas about freedom of association, assembly and the right to campaign could be viewed as a western invention that has spread through internet communication and the global media – in the case of China, there is some evidence that this view has gained traction.<sup>4</sup> The

1 World Economic Forum Annual Meeting 2015: The New Global Context, 2016. Event Report. Available at [http://www3.weforum.org/docs/WEF\\_AM15\\_Report.pdf](http://www3.weforum.org/docs/WEF_AM15_Report.pdf)

2 Elgott, J, Tiffany & Co backs investigative reporter in Angola blood diamonds case, 3 June, 2015, The Guardian, available at <http://www.theguardian.com/world/2015/jun/03/tiffany-co-backs-investigative-reporter-in-angola-blood-diamonds-case>

3 Lazala, M, Despite the odds: Businesses speaking out for human rights, June 2015, Business and Human Rights Resource Centre, available at <http://business-humanrights.org/en/despite-the-odds-businesses-speaking-out-for-human-rights>

4 Translation of an alleged leaked Communist Party circular called Document Number Nine reported by the Economist, “Political Rebalancing: Thinking Backwards”, The Economist, 24 June, 2013. Article available online at <http://www.economist.com/blogs/analects/2013/06/political-rebalancing?fs=scn/tw/te/bl/tilitinbackwards>

## Most of all, we need to start asking ourselves difficult questions.

pragmatic response by many governments has been to isolate the parts of civil society that they see as necessary, or at least benign - for instance service providing organisations in health, children, education and the arts - while seeking to marginalise critical voices through regressive legislation and muscular regulation.

To challenge this narrative we need to work harder as funders to show the positive effects that civil society can have. We need to take a more prominent role in explaining how philanthropists and foundations, and the organisations that they fund, can do more than augment state provision of services. We need to show that far from undermining stability and growth, civil society is a vital part of delivering it. A well-

funded charitable sector is able to represent the marginalised and voice dissent that may not always be comfortable to hear, but should be tolerated as a critical friend. Such an avenue for dialogue allows politicians to monitor public sentiment and acts as a pressure gauge for society. Egypt has become an extreme case in point. As I wrote last year<sup>5</sup>, successive Egyptian governments have failed to learn that silencing civil society is not merely ineffective at preventing unrest but may in fact ferment it in the long term.

As a UK-headquartered foundation, we would not want to give the impression that the closing space for civil society is only a problem for emerging economies or nations with nascent civil societies. Research

commissioned by CAF this year showed that just 33% of politicians in the Conservative Party, currently in power in the UK, believe that, "It is important for charities to highlight if they believe government policies will negatively affect people", compared to 63% of the general population.<sup>6</sup> In the UK, like many other nations, the view of the role that charities and their funders should play in society appears to be changing in ways that may give cause for concern. Increasingly, where charities are concerned, the word "political" has become a pejorative term that is all too often conflated with "party political" or "partisan". This wilful confusion has seen new restrictions on campaigning during the run up to general elections in the UK as a result of a piece of legislation that has become known as the "Lobbying Act".

### Funders of civil society

Some funders may feel that their mission is sufficiently uncontroversial that it is unlikely to fall foul of even the most muscular regulatory clampdown. Such an assumption could be criticised as favouring pragmatism over a sense of civic solidarity, but even this criticism might be too kind. As funders of civil society we must cultivate an environment in which politicians, business leaders and the public recognise the importance of an independent, diverse and occasionally controversial civil society. When we allow ground to be ceded at the margins because it doesn't affect us directly, we weaken the argument for our very existence. As an organisation that is trusted due to the essentially neutral nature of most of our activities, CAF is choosing to talk to our partners and raise awareness about the closing space for civil society. We encourage other funders to lend their voice

<sup>5</sup> Pickering, A. "By trying to control civil society, the Egyptian government could fuel more social unrest", May 21st, 2014, New Statesman. Available at <http://www.newstatesman.com/world-affairs/2014/05/trying-control-civil-society-egyptian-government-could-fuel-more-social-unrest>

<sup>6</sup> Under the Microscope: Examining the Future of Charities in Britain (2015) Charities Aid Foundation. Available at <https://www.cafonline.org/docs/default-source/about-us-publications/capartyconference-report2015.pdf>

to those who are being silenced and to resist complacency. But most of all, we need to start asking ourselves difficult questions.

As advisers to funders or as funders in our own right we are all faced with the challenge of adapting to trends in giving. It is critically important that we, as experts, consider how these trends interact with the closing space for civil society. The rise of movements like Effective Altruism, for example, is largely donor led and in many ways extremely positive. The desire to ensure that the maximum impact is derived from philanthropic money is undoubtedly laudable. However, it is crucial that in the quest to move the dial on causes that are innately measurable and tangible, we don't side-line activities that attempt to address systemic problems. An analysis of the history of philanthropic giving – such as can be found in the forthcoming book by my colleague Rhodri Davies, which focuses on the UK example – reveals that advocacy has been every bit as productive in improving lives as any other form of giving.

As momentum develops around the Sustainable Development Goals (SDGs), we must of course do all that we can to seize the opportunity and invest in a movement that could achieve historic progress for humanity. However, while we should welcome the fact that the Addis Ababa Action Agenda<sup>7</sup> on financing the SDGs recognises the “rapid growth of philanthropic giving and the significant contribution individuals have made”, the expectation is, perhaps quite rightly, that philanthropy should work increasingly within partnerships that are led by government and largely financed by business. The “call on all philanthropic providers to partner” in delivering the SDGs is followed in the

same paragraph with a “call for increased transparency in philanthropy”. Again, there is a strong movement to ensure that philanthropy is open to scrutiny from within the sector itself as this could help to coordinate resources and build public trust. But funders need to consider whether as minority partners (in terms of finances at least) within SDG partnerships, they may lose some of their independence, flexibility and capacity to innovate. Equally, they will need to consider whether partnering with governments who are closing the civic space while becoming ever more accountable to them represents a Faustian pact.

Mainstreaming the response to the closing space is not easy, and it has not been easy at CAF. As an international organisation with offices in advanced and emerging economies, we have first-hand experience of many of the issues that form part of this broad regressive trend. However, it is not always possible or indeed wise to tackle them at country level. We are lucky enough to have a dedicated staff – of which I am one member – that can consider the implications of wider trends and policies on our day-to-day business and on our wider charitable mission. In the course of our work we have put out a number of reports, as well as a great many articles and blogs, which have looked at issues such as how governments can build trust in civil society and charitable giving; how they can create an environment that guarantees the independence of civil society; and how the legal, regulatory and tax environment can encourage giving.<sup>8</sup> As a result, our hope is that CAF can help raise the profile of this issue with our partners and tackle what may be the greatest threat that civil society faces.

<sup>7</sup> Outcome document of the Third International Conference on Financing for Development: Addis Ababa Action Agenda, Third International Conference on Financing for Development, (2015) United Nations

<sup>8</sup> All of the listed content is available at [www.futureworldgiving.org](http://www.futureworldgiving.org)





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Europe and the former Soviet Union. As the programme's founding director, she developed expertise on a broad range of fundamental human rights issues in that region, as well as civil society's role in promoting rule of law and accountable governance. Ms Martinez holds a master's degree in human rights from the University of Essex. She also graduated from Georgetown University in Washington, D.C., with a bachelor's degree in international affairs and developmental economics.

# Ensuring grantees' resilience

Emily Martinez, Director, Open Society Foundations; and Iva Dobichina, Associate Director for Participation with the Human Rights Initiative, Open Society Foundations

Over the past year we have been hearing from an increasing number of grantees about a common and crucial challenge - governments restricting civic space in societies of all types, whether open, closed, or in transition.

In practice, this means that many groups in these countries face obstacles in accessing resources, maintaining their registration, and organising events. As a result, they spend more of their time protecting themselves instead of serving the communities of people they represent.

When the "foreign agents" law was enacted in Russia, the national government launched a wave of invasive inspections against NGOs. No one was immune. In some cases the measures were absurd - officials required chest X-rays and immunisation records of NGO staff, and demanded to see office air-quality and noise-level certificates, all in a bid to stop the spread of infectious diseases. One inspection resulted in a grantee having to photocopy over 8,000 pages of documents.

Such laws are framed as legitimate efforts by governments to combat money laundering; encourage transparency and accountability; ensure that tax breaks are given only to organisations that are "genuinely charitable"; and counter terrorist financing. While such narratives and such measures are sometimes legitimate and necessary, when one takes a closer look at the laws being proposed and passed across the globe, a gap emerges between the motivations given and the measures taken.

For example, after the Al-Shabaab attacks in Mandera, northern Kenya in December 2014, the Kenyan government shut down



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media; freedom of assembly; freedom of religion; and the right to fair trial. Ms Dobichina also served as Executive Director of the Institute "Reason", Director of Programs at the Bulgarian School of Politics, and Director of Programs at the Political Academy for Central and South-Eastern Europe in Sofia.

15 NGOs and put 540 organisations on a list of deregistered NGOs. Following the attacks at Garissa University College in April 2015, the government again listed organisations suspected of having ties with Al-Shabaab, including Muslims for Human Rights (MUHURI) and Haki Africa. Both are well-respected human rights organisations working from within the Muslim community in Kenya. Both were cooperating with the UN Security Council Counter-Terrorism Committee on countering violent extremism.

Several countries have introduced burdensome reporting requirements for NGOs and high penalties for non-compliance, including requiring additional staff responsible for anti-money laundering and counterterrorism financing compliance; detailed activity reporting and assessment of work; and compulsory annual auditing.

In Cambodia, for example, the Law on Associations and Non-Governmental Organizations purportedly prevents terrorist financing. The law mandates NGO registration and allows either the Ministry of Economy and Finance or the National Audit Authority to conduct an audit or examination of an association or NGO "in case[s] of necessity". The law also requires all NGOs to submit annual financial reports to the government. In Spain, foundations and associations are required to identify and document all persons who provide donations or resources of

€100 or more. Such restrictions are neither proportional nor effective in responding to real or perceived threats.

From Russia and China, to Canada, the US, and Kenya, countries have proposed or passed truly worrisome counterterrorism legislation. Such legislation results in increased surveillance, restricted financial flows, lack of due-process requirements, and suppression of dissent and expression.

Experts have attributed the trend to a number of complex factors. Many governments are concerned by the wave of civil unrest that began in Tunisia in 2010 and has since touched on countries as varied as Brazil, Russia, Thailand, Venezuela, Spain, Hungary, the US and Mexico. States also increasingly identify civil society actors as "political opponents", even though they are non-partisan, non-governmental actors. Previously open societies have been affected by what the Carnegie Endowment's Thomas Carothers describes as "the global stagnation of democracy". The counterterrorism imperative has also contributed to restrictions, with governments having been pressured by the US and the UN to pass counterterrorism legislation that targets civil society. The Financial Action Task Force (FATF) is also promoting the crackdown, albeit unwittingly.

There are a couple of generalisations that are made often when talking about the trend of

# When one takes a closer look at the laws being proposed and passed across the globe, a gap emerges between the motivations given and the measures taken.

closing space. However, what is required is a more nuanced understanding of the causes.

First, worrying statistics regarding civic space issues are used to draw attention to the issue. While the statistics are indeed worrying and useful in attracting interest to the problem, such figures are less helpful in designing strategies to address it. Statistics lump together countries like Azerbaijan, where activists face imprisonment; and Ethiopia, with its NGO law regarded as the most restrictive in sub-Saharan Africa as it de facto criminalises most foreign funding for human rights groups; with countries like Mexico and Spain, where the governments have implemented problematic anti-money laundering laws that have increased the bureaucratic burden on NGOs. This contributes to the difficulty in developing contextually relevant and effective responses.

Second, often we hear that the issue of closing space is affecting only grantees and donors working on the most sensitive of issues, including human rights. While it is true that some of the groups most at risk are those working on human rights and community-based activists tackling thorny and deeply-rooted issues of inequality - from community and environmental activists challenging business-investment and land-tenure policies, to membership-based LGBTI and education organisations seeking greater equality within systems - increasingly, however, the spaces in which development

service providers, humanitarian groups, and unions operate are shrinking. For example:

- In India, DanChurchAid (DCA), the Catholic Organisation for Relief and Development Aid (Cordaid), Hivos, the Interchurch Organization for Development Cooperation (ICCO), ClimateWorks, and Mercy Corps have all been put in the “prior approval” category by the national government - any transaction they make through Indian banks will need Indian government clearance from the Ministry of Home Affairs. Among the allegations against them is that they were funding anti-India activities and clandestinely routing money to Greenpeace India.
- In Pakistan, authorities shut down Save the Children’s offices, claiming staff members had been working “against Pakistan’s interest”. The decision was later reversed.
- In Nicaragua, the government launched “Operation No More Lies” against NGOs it accused of embezzlement, money laundering, and subversion. The NGOs’ promotion of human rights, gender equality, and poverty reduction were “modern-day Trojan horses”, the government said.
- In Egypt, Coptic Orphans was denied permission to work. The Ministry of Insurance and Social Affairs denied the

organisation's application on the grounds that "mechanism[s] of implementation [were] found by the Egyptian [government to be in] conflict with state sovereignty over its territory."

- In 2015 alone, labour unions were not allowed to assemble and associate in countries such as Bangladesh, Guatemala, Indonesia, Cambodia, and Swaziland.

As a funder working in this context, Open Society Foundations is guided by our firm belief that people have the right to organise and participate in any decision-making that affects their lives. In so doing, they have the right to seek and receive support from domestic and international sources. The examples above provide both the impetus and the opportunity to build more effective links across civil society and across different rights struggles to ensure that these rights are realised.

#### What can we as donors do?

One set of responses is related to the resilience of the civil society sector. As funders, we should help grantees comply with new regulations. Even before regulations are put in place, funders should help strengthen grantees' financial and governance systems to support them in meeting their regulatory obligations and mitigate any disruption caused by over-reaching government requirements. Failing to incorporate overall organisational health into our grantmaking practices leaves grantees vulnerable to accusations of mismanagement of funds or lack of transparency.

We also have an opportunity to focus more attention on building our grantees' capacity for public outreach to expand and consolidate their bases of support. We need to encourage groups to develop new approaches to leveraging local funds and

mobilising other resources that contribute to a stronger, broader resource base for activism. We also need to support their efforts to think creatively about how to engage with the communities in which they work and to raise the profile of their work among those constituents.

Too often, funders focus on what we know how to do - advocate for or against legal changes and global norms. But the reality is that in many places the restrictions civil society groups face do not only require changing laws; rather, these groups must respond effectively to smear campaigns that undermine their reputations (personal and professional) and overcome a litany of bureaucratic hurdles that activists face in carrying out their everyday work.

There are additional steps donors can take to underscore the legitimacy and critical role of our investments in civil society. We can foster conversations across thematic fields and geographies around the space for activism. We can begin opening communication channels among funders, human rights groups, humanitarian organisations, development agencies, and other civil society groups to discuss how to reverse what Carothers calls a "tectonic shift" in how governments view and deal with civil society. And, we can proactively engage in discussions with aid-providing and aid-receiving governments and international institutions on the challenges of grantees in their countries. Finally, there is an increasing need to explore how policies within the financial and trade sectors are being used to limit space and how advocacy efforts can reform these policies to protect and expand the space for activism.

# Enabling philanthropy across Europe

Ludwig Forrest, Philanthropy Advisor, King Baudouin Foundation

A few months ago, the 18 members of the Transnational Giving Europe network agreed on a new tagline, “Enabling philanthropy across Europe”, to explain what it tries to do and achieve.

This is simply about making the lives of donors wanting to support a beneficiary in another country easier, and doing this in a secure and tax effective way, with more effective due diligence. In times when it is most needed, philanthropy is being creative in finding the pathways it needs.

At the Centre for Philanthropy at the King Baudouin Foundation, we continue to promote more and better philanthropy in Belgium, in Europe and around the world. The Centre advises donors of all sizes and shapes on their philanthropic, and increasingly international, vision. More and more donors want to support social projects either abroad or with an international outreach. These donors want to be enabled to improve and maximise their philanthropic impact.

The good news is that figures of (cross-border) philanthropy are still growing.

More and more persons and companies are engaging in Europe, but also around the world. Philanthropy is undoubtedly achieving impact, it is embracing innovation and it is in a unique position to support and try smart new practices to tackle and solve social problems. And we all agree that philanthropy never can and indeed should not replace the role of the state, but remains a vital complement to it.

The bad news is that the title of this publication is “Shrinking”, not “Enabling”. All this positive energy is countered by dramatic developments in some parts of the world but also within some countries in Europe. Things are not as easy for civil society as they once were. Other contributors to this publication have illustrated clear examples of this. However, we should not panic - we need to remain optimistic, but careful. We should highlight these unfortunate developments while continuing to improve our work; our transparency and self-regulation efforts; our quest for social impact. We should highlight also the positive developments that happen in many countries. Philanthropy is so much more than tax benefits for donors, and we should not see budget cuts as necessarily shrinking our space to operate. We and our beneficiaries need to understand that these cuts just mean that we need to be creative and find new “business models”. We should continue to monitor legal and fiscal regulations, changes or proposals.





**Ludwig Forrest** has been a Philanthropy Advisor for 15 years at the King Baudouin Foundation's Centre for Philanthropy. He

provides information, guidance and tailor-made help on strategic philanthropy to private donors, families, businesses and professional advisors who wish to engage in public-benefit initiatives. Helping donors and beneficiaries to find effective solutions for philanthropic intentions, and fostering and enabling the European cross-border giving environment by promoting the Transnational Giving Europe network are his main objectives. Mr Forrest is the

Chair of the Legal Committee at the European Foundation Centre; advocate at national and EU-level; and publicist and speaker/moderator at international conferences. He has also organised and coordinated the three editions of Philanthropy Day in Brussels, gathering more than 600 persons from Belgium and Europe interested in philanthropy.

We should enter into dialogue as never before with our national and supranational authorities to boost our complementarity. And finally, we should communicate on philanthropy, on foundations and on what we do achieve, also and probably as a priority to those who are not yet aware of this.

The EFC has played an active role in this through its Legal Committee, which I have the honour to Chair. Advancing an enabling operating environment for foundations and cross-border giving has been a key priority for the EFC since its establishment. The EFC has built significant expertise on legal, tax and regulatory developments for the sector in Europe - through mappings, policy monitoring and analysis, and advocacy work at EU and, increasingly, international level. A key objective is to raise awareness within the philanthropic and wider civil society community of policies or regulations that might be affecting - either negatively or positively - their ability to pursue public benefit work, either within their home country or internationally.

Overcoming its disappointment with the withdrawal of the European Foundation Statute, the EFC is looking at other ways to overcome barriers to cross-border donations and legacies, including the issue of withholding taxes. We are also monitoring the developments on VAT. More recently, the EFC has joined efforts with a number of funders networks and NGOs to build a

## In times when it is most needed, philanthropy is being creative in finding the pathways it needs.

better knowledge base on and develop ways to address more effectively the growing number of restrictions on the operating space for civil society, both in Europe and internationally. Key recent activities include monitoring FATF and EU regulations.

In ways big and small, philanthropy has helped to advance the human condition and spirit around the world. When individuals, families, organisations and businesses contribute to the public good, they are participating in a time-honoured tradition that advances our common humanity. We should therefore continue all together to enable it, not to shrink it.



Joachim Rogall studied Eastern European History, Slavonic studies and German. He was awarded a PhD in 1988, and qualified as a university lecturer in 2000 at the University of Mainz.

Mr Rogall has been an Adjunct Professor for Eastern European History at the University of Heidelberg since 2003. In 1996 he moved to the Robert Bosch Stiftung in Stuttgart where he worked as Senior Vice President International Relations Central

and Eastern Europe, CIS, China until March 2013. He became the Chief Executive Officer of the Robert Bosch Stiftung in April 2013 where he is responsible for financial management and control, human resources, as well as the programme areas "Health", "Science" and "Europe and its Neighbors".

# The shrinking space for civil society - The case of Russia

Joachim Rogall, Chief Executive Officer, Robert Bosch Stiftung; and Atje Drexler, Head of Department International Relations Europe and its Neighbors, Robert Bosch Stiftung

The space for civil society is shrinking in quite a number of countries we are currently working in - most notably in Russia, but also in Turkey and Egypt and even inside the European Union, if you look at developments in Hungary or Poland.

It is not only the legal and political frameworks that have been narrowing the room for manoeuvre, but also carefully designed public campaigns aiming to discredit civil society organisations and to stir up distrust in their leaders.

As the situation in Russia has been deteriorating dramatically over the past three to four years, this is the country we would like to focus on here. The political and legal conditions for civil society organisations and active citizenship as a whole have alarmingly changed. New legislation like the so-called "foreign agent" law; high profile trials against civil society actors; and an overall atmosphere in which the questioning of government policies or cooperation with a foreign organisation may be publicly denounced as "unpatriotic" or "treasonous", all challenge the functioning and vitality of Russian civil society. Some prominent NGOs, especially from the field of human and civil rights, are paralysed by recurring financial and other reporting requirements, and some spend as much time and monetary resources on dealing with them as they direct to their cause.

The ongoing political crisis of confidence between Russia and the West has impacted the economy and civil society, and is reflected in anti-Western media coverage in Russian state-controlled media. The work of foreign NGOs and foundations



Atje Drexler has been Head of the Department International Relations Europe and its Neighbours since April 2013. She has been with the Robert Bosch Stiftung since 2001 working primarily in the Health and Science Department where she held the position of Deputy Head of Department from 2007 through 2012. In this position she was responsible for the foundation's medical and research institutions, namely the Robert Bosch Hospital, the Dr. Margarete Fischer-Bosch-

Institute for Clinical Pharmacology and the Institute for the History of Medicine. Before joining the foundation, she worked in the automotive industry for three years as a Junior Sales Manager at Continental Teves AG & Co. KG in Frankfurt. Ms Drexler graduated from the University of Göttingen in 1998 with a Masters degree in Slavic Studies and Political Economy, after having studied both in Germany and in St. Petersburg, Russia.

is often portrayed as an intrusion into Russian domestic affairs and was put under a sword of Damocles when the law on "undesirable foreign organisations" was introduced in 2015. As a consequence, opportunities for Russian foundations and NGOs to cooperate with international partners are fading.

How can we as Western funders and partners of Russian civil society continue our work in these circumstances? Which options are open to us as a foundation which has a long tradition of fostering mutual understanding and dialogue with Russia? Is there anything we can do to help Russian civil society survive and develop? Does the work we do in this situation still have an impact? Of course, we are constantly confronted with these questions, and a lot has changed for our work. We are convinced that working in and with Russia is possible, necessary and potentially impactful, even though it is difficult and at times discouraging. It does take, however, more resources and time than it used to, because it has become vital to follow the situation closely and to give more thought to risk analyses and safety issues. Given the difficult and volatile situation in the country we are also learning to be more flexible in formats and approaches and not to be deterred for too long by setbacks. Over the past three years we have become less attached to

**Looking to the more established representatives of civil societies, Russian NGOs more than ever need our support to maintain and broaden their international contacts.**



long-term strategies and have made more use of opportunities when they arose. A lot can still be done in Russia, but it takes time and openness to identify the opportunities rather than staying focused on the barriers.

What can we do to support Russian civil society? We are convinced that it is more important than ever to stay in touch with Russian civil society and secure its access to international exchange and shared learning. In doing so we believe that it is crucial to define “civil society” in a broad sense which encompasses both the traditional institutions of civil society (e.g. NGOs) and the full range of the manifestations of active citizenship and promotion of social change (e.g. social entrepreneurship, impact investment, volunteering, and participative urban development). For us, this means exploring new ways of cooperation, getting engaged with new partners in

Russia and fostering connections between stakeholders from different sectors.

With the directed involvement of cross-sectoral stakeholders from government, civil society, academia and business, “new” synergies and opportunities for participation for civil society evolve. In particular, social entrepreneurship has developed into a sphere of activity in which international cooperation is desired, providing starting points for collaboration with Russian partners.

Moreover, cooperation in the promotion of urban development, social investment and innovation seems highly promising. With the programme “Social Impact Days” the Robert Bosch Stiftung fosters a multilateral and cross-sectoral exchange platform for social innovation in cooperation with BMW Stiftung Herbert Quandt and MitOst e.V. The “Social Impact Award” honours promising social entrepreneurial approaches in the region.



## Working in and with Russia is possible, necessary and potentially impactful, even though it is difficult and at times discouraging.

Both projects have proved remarkably popular in the Russian foundation community, and we do believe that seeking cooperation with domestic funders from philanthropy and the business sector is helpful and necessary for further engagement in Russia.

Looking to the more established representatives of civil societies, Russian NGOs more than ever need our support to maintain and broaden their international contacts. Invitations to international conferences and exchanges, but also international presence at their events, will help them counteract the isolation they are experiencing at home. In addition, initiatives that foster professional development and conserve the human capital in the sector are much in need. In particular, NGO staff today need a high degree of accounting, tax and law expertise that they typically do not have and which is essential to navigate the complex Russian framework.

Since the 1990s, the Robert Bosch Stiftung has stood up for democratic values such as the rule of law, freedom of speech and press and the strengthening of civil society. By strengthening “new” civil society actors and exploring innovative project ideas beyond already paved paths, new opportunities open up for cooperation and spheres of activities, which seem to rebuild and enhance mutual trust with and within Russian civil society.



# A letter from an African foundation in 2064

Bhekinkosi Moyo, Executive Director, Southern Africa Trust

## Dear colleagues in foundations,

It is just over a century since the formation of the Organisation of African Unity, whose main mandate was the emancipation of African nations from colonialism. Colonialism and imperialism among other forms of oppression were then the highest expression of how the space was closed for African citizens and their political life.

Protracted political struggles were waged to open up the political space for Africans and in 1994, South Africa became the last country to receive international acclaim for making the transition to a free country.

Interestingly though is that in 2064, a hundred years later, we are still waging struggles against many attempts to close the space for citizens and their formations. We should have known better when some of our ancestors fought against the one-party state that was adopted by many of the newly independent African states. Not only did newly elected leaders form their own organisations in place of civil society, they also shut down the space especially for human rights movements and the media. This has gone on till today.

But today the struggle for opening up the space is not only along political lines but along a number of fronts, especially for foundations like ourselves. Our operating space has been closing due to political harassments, arrests and torture especially for movements and individuals who operate in the main on human rights. Even foundations like ourselves that support these movements, including minority rights such as sexual rights, are being persecuted. Life has become very difficult for foundations that provide financial support to movements and organisations that defend people's rights. This has forced many of us to contemplate closing down operations.

While 100 years ago the main factor that closed the space was the political dimension, today there is an economic dimension where the private sector has also become involved in solving social issues. While this was initially welcomed 50 years ago, it has of late just obliterated civil society completely. I miss the days when we could take a long view in solving social problems. Today it is all about scalability and replicability as well as metrics. I shudder to imagine what the space will look like in 3064 given the speed at which technology has transformed the world and left many of our groups behind.



**Bhekinkosi Moyo** is the Executive Director of the Southern Africa Trust, a regional organisation that supports wider and deeper policy engagements in regional integration. Prior to this, he was Director of

Programs at TrustAfrica, a pan-African foundation based in Senegal for close to seven years contributing to its growth and pan-African reach. Mr Moyo writes extensively on African philanthropy, governance and the state of civil society in Africa. Among his recent books are: "Helping to Give, Giving to Help: The Context and Politics of African Philanthropy" (2013), "Disenabling the Public Sphere: Civil Society Regulation in Africa" (2010); "Africa in Global Power Play" (2007); and "What about the children: The silent voices in maintenance" (2004). He has also contributed a number of

journal articles, book chapters and regularly writes a column for the African Decisions Magazine. His 2014 article in the Development in Practice Journal is "African philanthropy, pan-Africanism and Africa's development". Most of his works can be found on [www.bhekinkosimoyo.com](http://www.bhekinkosimoyo.com) including his Mail and Guardian blog. Mr Moyo sits on the boards of The African Union Foundation; International Society for Third Sector Research; African Grant Makers Network; University World News; ICCO Southern Africa Regional Council; as well as the Alliance Magazine Editorial Board.

My colleagues, the more things change, the more they stay the same. Closing the space for liberties and operational space has jumped from one century to the other. In order to stay the course, foundations like ourselves need to dig deeper into the future and build anti-fragile systems and processes to mitigate any new forms of closing the space for our existence. We need to improve our data collection methods, nuance our advocacy approaches as well as be sophisticated with our intelligence capacities. We must give our governments and the private sector serious competition. Forty-nine years ago in 2015, we asserted that we had power as foundations when the United Nations Sustainable Development Goals (SDGs) negotiators included foundation leaders in adopting the goals. We resisted being seen only as providers of money. We affirmed our role beyond money to include our flexibility, risk taking and innovation among others. We can still resist the closing of space in its many manifestations. We need to work very closely because those that close the space for us have always banded together.

Frankly, if we don't do this, some foundation leader will be writing similar things in 3064.

Yours,

Amadou

**We need to work  
very closely  
because those  
that close the  
space for us  
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banded  
together.**

# Palliative or catalyst?

## Defending the space for civil society

Vinit Rishi, Director of Administration, Oak Foundation

A couple of months ago, our bank refused to process a payment to a US public charity despite our providing IRS determination letters, audits, etc. Too risky they felt. The organisation had "Iran" in its name - just the mention of Iran was enough to have the bank want to keep its distance.

The grantee organisation has been established by exiles critical of the current government who now cannot even use the name of their country if they want to use the banking system. Keep in mind that BNP Paribas paid an \$8.9 billion fine in 2014 for breaching US sanctions against Iran, so our bank wanted nothing to do with anything even remotely associated with Iran.

More recently the bank has blocked and questioned a number of other grant payments. The payments are to well-

known organisations with significant brand recognition. The reason for this I am told is that the payment description reads "Syria Appeal". We have put that in so that the receiving organisation knows which of their projects to apply the funds to. To the bank it's a red flag. I know that Syria is on the sanctions list but this money is going to bank accounts in the United Kingdom and Switzerland, so what is going on here? My contact at the bank explains the rather toxic mix the payment represents - the delivery instructions contain both a non-profit and a name that appears on sanction lists. At the individual level this represents career terminating risk. Due diligence forms on the transaction must be completed; the ordering customer must explain and justify the purpose of the payment; higher authorities at the bank must sign off; and, no, we will not check the Charities Commission website to confirm that Oxfam is a registered charity - the client must furnish all of the needed documents.

To be fair, the bank says it's because it's complying with the recommendations of the Financial Action Task Force (FATF), but surely Oxfam and the International Committee of the Red Cross are not likely to be engaged in terrorist financing or money laundering! And furthermore, aren't these entities



Vinit Rishi is Director of Administration at Oak Foundation. Mr Rishi has extensive financial,

accounting and management experience operating at an international level within complex matrix organisations. Prior to joining Oak Foundation, as the Head of Global Statutory & Interfirm Transactions with Andersen Worldwide, he built and developed a team that provided controllership oversight for transaction flows across 84 countries. Mr Rishi was also the partner in charge of Finance & Administration for the Geneva

HQ office. He has also worked for Iomega, a manufacturer of smart, portable computer storage products; as Head of Treasury & Tax for Europe and Asia/Pacific; and as Chief Financial Officer for Logispring, a private equity firm.

He studied at the Doon School in India joining his parents in Geneva in 1983 where he completed a master's degree in Finance at Webster University. He is fluent in English, French and Hindi.

already regulated, duly registered, filing documents annually and doing so publicly? Despite the layers of regulation and control that already existed pre-FATF Recommendation 8, an entire additional layer of compliance has been crammed on with no consideration to use what was available, to complement it, or to eventually rescind it if it serves no purpose.

The contrast with the “for-profit” sector is striking. While civil society struggles with these increasing burdens of compliance, governments are secretly negotiating treaties such as the Trans-Pacific Partnership to remove the burden of regulation from business. Maina Kiai, UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, observes in his report to the UN General Assembly meeting in October 2015 that:

“States often go to great lengths to create the best possible environment for businesses, but rarely go so far for associations. These differences appear motivated more by politics than practicality. Economic interests are prized over what are perceived as non-economic activities, and the influence and opinions of industry take precedence over social justice and fundamental rights. Sectoral equity is not a difficult concept to adopt. It is simply a matter of political will.”

The in-practice implementation of FATF regulation 8 only confirms the asymmetric value being placed on economic versus human rights. And even within the sphere of economics, more value is placed on macro-level economic growth than the more pressing issues for humanity of access, distribution and the sustainability of resources! Perhaps the recent trend to set up limited liability companies to disburse philanthropic funds is a related consequence.

FATF is only part of the challenge faced by civil society organisations. A quick web search on the term “closing space for civil society” lists articles and reports from every significant network of human rights organisations discussing the crackdown that is underway. A recent article published in The Guardian newspaper states that over the past three years more than 60 countries have passed or drafted laws that curtail the activities of non-governmental and civil society organisations. The article goes on to quote James Savage of Amnesty International:

“There are new pieces of legislation almost every week - on foreign funding, restrictions in registration or association, anti-protest laws, gagging laws. And, unquestionably, this is going to intensify in the coming two to three years. You can visibly watch the space shrinking.”



**While governments try to quash the flow of funds to issues they dislike, they actively seek to channel foundation and other donor engagement towards service delivery.**

What I feel and see day today is the increasing complexity and compliance burden faced by both us and the organisations we fund. These requirements tend to be country specific and therefore particularly onerous for organisations working internationally. Examples include banking requirements with purpose of payment codes being introduced by various countries (Jordan, India etc.) or the need to supply documentation with every payment to a recipient organisation (Mexico).

Beyond the increased cost the criminal liabilities being attached to what are essentially administrative laws and rules are more concerning. An example is the new information law in Tanzania which criminalises the publication of statistical data that does not come from the government's own Bureau of Statistics. Similarly, falling afoul of the





## **What I feel and see day today is the increasing complexity and compliance burden faced by both us and the organisations we fund.**

laws on the receipt and use of foreign funds in Ethiopia and India can lead to imprisonment. Governments are writing laws in vague and broad terms and then interpreting them as required by the circumstances. The prospect of partners or staff being imprisoned is a growing and real concern.

While governments try to quash the flow of funds to issues they dislike, they actively seek to channel foundation and other donor engagement towards service delivery. Governments claim the reason for this is their own democratic mandate as opposed to the lack of accountability of foundations and as a quid pro quo for tax breaks.

Sadly, there has been no demonstration of large-scale public support for traditional civil society, encouraging some actors to voluntarily curtail their activities to “safer” issues. A sector that prides itself on being the risk

capital of social change finds itself increasingly cajoled or coerced into being a palliative rather than a catalyst. This is a challenge the sector must come together to face.

# From dissidents' democracy to grass-roots democracy - Countering the notion of the closing space of civil society

Haki Abazi, Program Director Western Balkans, Rockefeller Brothers Fund

As a result of the Cold War and the ideological clash between western democracies and communist systems, the work of multilateral, bilateral, and philanthropic donors during the 1970s, 1980s and 1990s was focused on establishing and supporting dissidents.

They became the symbol of resistance, a synonym of freedom of expression, and guardians of fundamental human rights. In many cases, this approach continues to be implemented in post-conflict and transitional settings.

The time has come to question whether this approach is adequate and producing the impact we need in creating functional participatory democratic societies. If this approach is supporting a developmental agenda, is it being used as a stabilising factor to maintain a post-conflict status quo?

The dissident approach clearly worked in many countries and was particularly impactful in central Europe during the 1990s, when dissidents played critical roles in maintaining the spirit and vision of the people united in fighting communist autocratic regimes and organising the "colour revolutions" of the early 2000s.

However, even in the cases of Poland, the Czech Republic, Hungary, and the Baltic countries, one could question what the effectiveness of the dissident approach would have been if there had not been proximity or genuine interest of the EU to aid and advise the development reform agenda of these countries, in order to join the EU, as well as cultural and societal similarities among aspiring countries and EU members.

On the other hand, why are Georgia, Moldova, Ukraine, and the Balkans failing to follow the same process as central Europe did not so long ago? It is obvious that geopolitics and the international political economy are among the determining factors of successes or failures of transformation and change. We must find the way to also compare this to the struggles for change in Cuba and the Middle East and the role civil society is playing or not playing in those places.

Using the same approach today that was employed during the dissident-centric



**Haki Abazi** is the Program Director for the Western Balkans portion of the RBF's Pivotal Place programme. Prior to joining the RBF in 2007, Mr Abazi served as Director of the

Kosovo office for the East West Management Institute, Inc. He developed and implemented a wide range of programmes addressing critical issues in Kosovo during the transition period. He also has played an important role in the development of civil society in the region. Mr Abazi has over nine years of experience in designing and managing development programmes in Kosovo, Serbia, Montenegro, Afghanistan, and Indonesia. These programmes were designed to support overall developments and increase the level of participation of citizens

in decision-making processes. Mr Abazi has in-depth knowledge and work experience related to the Balkan's civil society community and the geopolitics of the region. He is chairing the Steering Committee for the Grantmakers East Forum and sits on the boards of several international organisations. He holds a degree in computer sciences and management, and was educated in Kosovo and the United States. He is fluent in English, Albanian, and Serbian, and also knows basic Dari.

revolutions of the 1990s, the post-Berlin Wall era, presents the major obstacle to political dialogue and partnership between civil society and governments. These days, donor support for individuals to become the voices of citizens against authoritarian regimes automatically raises concerns that the aim is only to collapse and remove regimes. In most cases, the authoritarian regimes consider support from donors to certain individuals or groups as threats to their power. As a consequence, the world is seeing extreme polarisation of societies and crackdowns on civil society by using extreme methods and means.

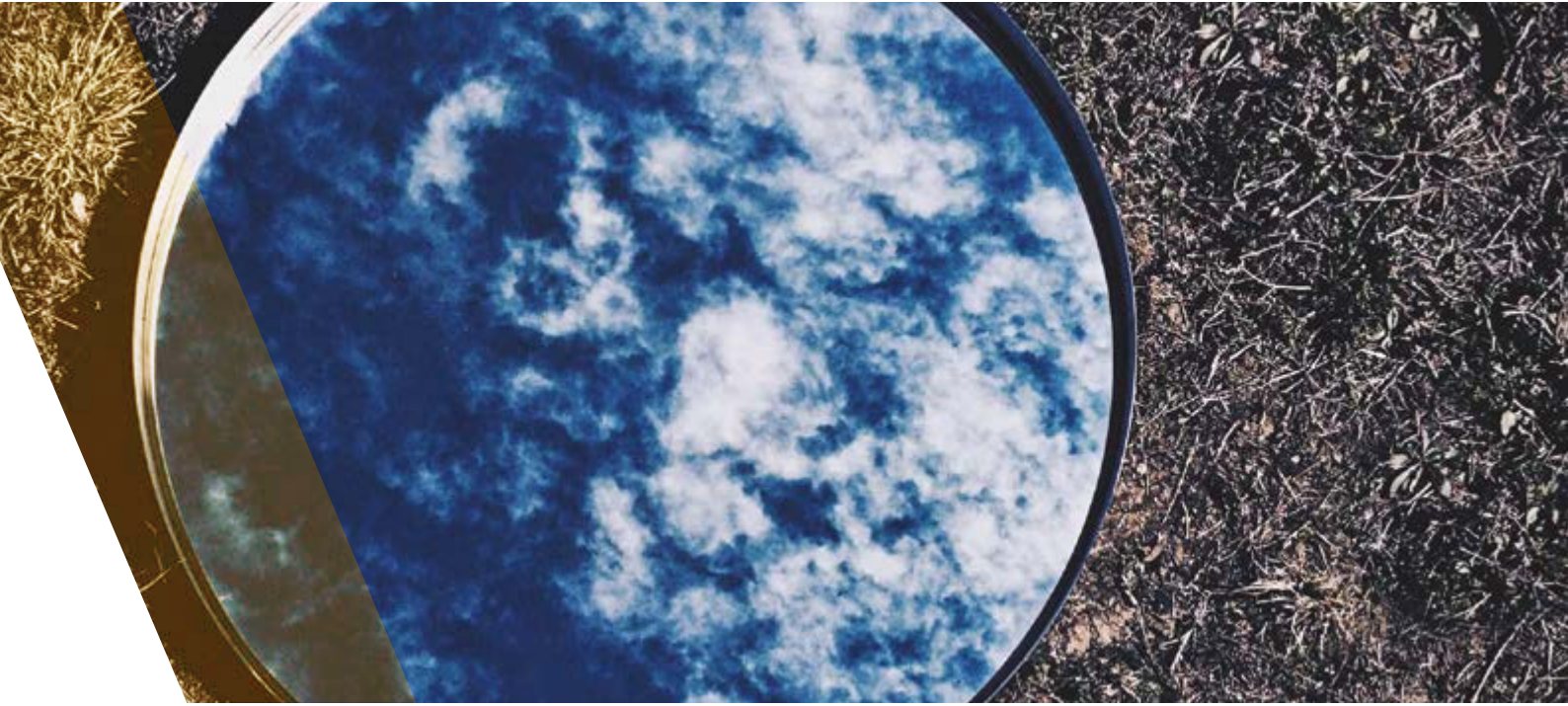
Over the last five years, there has been a tremendous increase of conflicts where instability and violence have been triggered as a result of animosity and lack of civic engagement, lack of conflict prevention initiatives, manipulation of individuals for different interests inside regimes, and, often, individuals in civil society who become instruments of hidden agendas, mostly in international fora.

A shift in the funding paradigm is necessary. Donors have to move from being hostages of a relationship with an individual to primarily supporting lines of work that strengthen the sophistication and engagement of a much larger number of issue-based groups. Civil society cannot be understood only as the voice of individuals that call themselves NGOs or reactive/

complaining mechanisms in society; it has to represent broad, substantiated public input, become the space for developing a solutions discourse, provide comprehensive alternative solutions, and nurture the brain power of society that can eventually migrate into the political system to boost the capacity of governments.

Increasingly, the space where civil society operates is ambiguous, diverse, and largely an ecosystem encompassing many different and often competing interests, making it difficult to align organisations, as is happening in the post-Mubarak era in Egypt. When the Muslim Brotherhood took power, it continued to oppress the very same civil society groups that had demanded change. It is hard to pinpoint what went wrong in Egypt, Libya, Syria, and even the Balkans in the 1990s, and when it happened. But, it is clear that revolutions in societies cannot happen only on the streets: Revolutions have to happen in the minds of the people, and change cannot happen because there is one dissident leading the frustration of the people. Civil society should be the driver of change that offers clear alternatives and protects a quick transition to a very clear development agenda based on the rule of law, equal opportunity, and social mobility.

I am not arguing that the approach used in the past for supporting strong dissidents was wrong. On the contrary, it seems to have been a workable solution to prepare



**Talking about the closing space of civil society is a bit of a knee-jerk reaction as well as a sentimental judgment.**

societies for change based on a vision and clear plan on how to achieve it, in order to avoid clashes, the emergence of nationalism and fascism, the destruction of infrastructure, and displacement and war.

For example let's compare the split between the Czechs and the Slovaks. If society were not ready, dark forces could have easily turned that situation into a conflict to perpetuate and maintain their power, and a fight over the control of resources. Compare that to the collapse of the Sykes-Piko agreement that is producing catastrophic consequences in the Middle East.

It was once effective to have one person and one goal or message be repeated for decades. Today that is not enough. The Occupy Movement, the Taksim Square/ Gezi Park Movement in Turkey, and even the Hong Kong Occupy Central Movement are proving that it is not adequate only to



mobilise people. Movements for change have to have clear sets of mechanisms and governing concepts that they will address. They also need a plan on how to eliminate corruption and how to fight monopolisation of the political processes through financial influence - two 21st-century cancers afflicting democracies today. Otherwise, people are reluctant to let go of a broken system that is at least delivering something, and instead embrace a theoretical vision of change whose ability to provide and fulfil basic needs is unknown.

The role and responsibility of civil society as a third and balancing sector between the government and the private sector is more complicated and it requires larger sets of skills and sophistication in strategising rather than just presenting itself as an agent of fleeting change.

Guaranteeing functionality of the democratic system requires a solid base from which people can not only operate but can also sustain themselves and present proactive solutions that go beyond protests and demonstrations in the street.

To conclude, talking about the closing space of civil society is a bit of a knee-jerk reaction as well as a sentimental judgment. The civil society sector is smarter and has more experience to understand that there is no force, including the state apparatus, that can entirely close or even partially close the space for civil society.

If civil society changes its tactics and strategy, the shape and form of engagement can be different and the results will be different. We cannot fall into the trap of classifying the lack of change as an impossible situation and take the position of civil society as victim.

The same way that governments in democracies should not be about cults and individual names, civil society should

also not be about individual names, but about proposing solutions and permanent openness, and ensuring a constant internal refreshing of ideas and concepts in a world that is being severely challenged by the concentration of capital, lack of resources, and now the effects of climate change. A paradigm shift is necessary. Donors should take the long view and help support the horizontal and vertical development of civil society and its mechanisms to be a sector for solutions and in becoming a powerful guardian of democratic functionality for countries, regions, and global governance institutions. Civil society can forge partnerships among governments, the private sector, and themselves, and encourage respect for fundamental values and principles of democracy and rule of law. Donors should get out of the foundation offices and live as partners in the ecosystem of civil society. They should be wary of artificial spaces that absorb and consume energy and resources without producing results. The sector's aim should be local ownership, sustainability, transparency, and accountability of the third sector, and knowledge-based engagement and collaboration.

# Civil society in Greece - The stretching and maturing of the non-profit sector

Dimitrios Vlastos, President of the Board, Bodossaki Foundation

If civil society in many countries is currently experiencing a “shrinking” of the space in which it can operate, in Greece it would be more accurate to state that civil society actors are being “stretched” by recent developments.

There is a dramatically increased social demand for services provided by civil society organisations at a time when state funding has decreased, and both institutional and organisational barriers continue to hinder the development of the sector. However, there are also positive signs of an awakening and maturing of Greek civil society, which give grounds for optimism for the future.

The past six years of economic and social crisis in Greece have fundamentally shaken the environment in which CSOs - including NGOs, informal citizens groups, grass-roots organisations and charitable foundations - were accustomed to operating. The figures are striking: Since the onset of the crisis, Greece's GDP has shrunk by more than 25%, and the unemployment

rate has rocketed to 30% among the general population, and to more than 50% among young people. Poverty rates have risen steeply, meaning that an important proportion of the population are now unable to meet their basic living expenses and have lost access to the national healthcare system. As a result, CSOs that provide social welfare have seen an exponential demand for their services. The migration crisis has added an extra dimension to the humanitarian challenge: Hundreds of thousands of migrants and refugees have entered the country since the beginning of 2015 and there is no end to this situation in sight.

This would be a formidable set of circumstances for civil society to respond to in any context. In Greece, the challenges are exacerbated by the fact that organised civil society is still comparatively underdeveloped. Historical, social and political factors have all contributed to a context in which concepts of civic culture and active citizenship have never become mainstream. This is reflected both in citizens' low levels of volunteering and associational membership and in the state's failure to understand the value of the third sector for strengthening democratic institutions and promoting social participation. In these circumstances, it is not surprising that very few NGOs have achieved the level of organisational





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executive of organisations such as Shell, The Hellenic Industrial Development Bank and the Bodossaki Group of Companies, and has served as a consultant on economic and investment matters of metallurgical and industrial companies and as member of the board of directors of many other companies and organisations. He has been an external collaborator of the Centre for Economic Research (KEPE), Athens.

From 1991-2007 Mr Vlastos was a member of the Board of Trustees and Secretary General of the

Bodossaki Foundation, after which he became President and Chief Executive Officer. He also served as a member of the Board of Trustees and Secretary General of WWF Greece, Vice Chairman of the Board of Trustees of the National Library of Greece, member of the Board of Trustees of the Athens Concert Hall and member of the Advisory Board of the EGG (enter.grow.go) Programme which aims at boosting young entrepreneurship. He is married and has a son and a daughter.

development necessary to be able to scale up their activity beyond the local level.

Perhaps the most immediate challenge faced by the sector today is the lack of funding. The government suspended much of its public funding for NGOs in 2010, in an attempt to control and minimise public spending. Understandably, public donations have also dropped sharply. This situation has been further exacerbated by fiscal measures that have annulled tax exemptions and benefits for NGOs, including charitable foundations<sup>1</sup>, meaning that foundations' funding capacities have also been hit hard.

However, the institutional barriers to the development of the sector go far beyond the lack of funding. The lack of a coherent, transparent framework for NGOs has a number of negative ramifications for their operation. First, there is no complete catalogue of NGOs in Greece. Over the years, several attempts have been made to map the sector, but the resulting lists are all partial and there is still no single, comprehensive catalogue. This lack of basic information makes it impossible to accurately calculate the size and social contribution of civil society organisations and hinders efforts to promote the role of the sector.

Second, the legal framework that governs the operation, funding and accountability

of NGOs in Greece is vague and ambiguous. There is no concrete legal definition of the term NGO. Such ambiguity jeopardises the independence of non-profit organisations, and undoubtedly contributes to the low levels of public trust in the sector. The system of financial regulation of the sector is also haphazard and locally variable, being largely dependent on the subjective interpretations of local tax officers. This approach has failed to promote transparency across the sector and has further undermined public confidence.

Another important institutional inefficiency has to do with the complete absence of a legal framework for volunteering in Greece. The lack of legal recognition of volunteers is a major obstacle, as many organisations rightly fear that they may be liable for prosecution for violating labour laws because they work with volunteers. The failure of the state to promote volunteering through the education system, for example, also contributes to the extremely low levels of volunteering.

A further barrier to the development of the sector is the marginal role that civil society is granted in the policymaking process. Civil society actors are rarely given a consultative role, and if they are taken into account at all in policy formation, it is usually only in their capacity as service providers. Policymakers do not seem to realise the value and importance of the voluntary organisations

<sup>1</sup> Most recently, Law 4172/2013.



**Foundations, along with other civil society actors, have a crucial role to play in working to increase the space for civil society in Greece.**

in producing social capital which in turn can promote more effective government.

In the face of these challenges, foundations, along with other civil society actors, have a crucial role to play in working to increase the space for civil society in Greece. At the heart of the matter is the need to promote the value of civic culture and active citizenship, not only among the general public, but also among state and media actors. We certainly need to promote public engagement, but we also need to advocate for a policymaking culture in which the democratic and social value of a vibrant civil society is recognised and is also underpinned by a clear, transparent legal and fiscal framework. With these goals in mind, the Bodossaki Foundation recently participated in a legislative committee whose primary purpose was to draft a new law that would create a coherent framework for the establishment, operation, transparency

and accountability of Greek NGOs. Unfortunately, political developments have hindered this initiative, but the work is still in progress and we hope that it will yield results.

At the same time, we also need to acknowledge that the rather unfavourable context for civil society in Greece today is at least in part a reflection of the fact that Greek civil society has not been able to advocate effectively for a recognition and an expansion of its own role. For civil society organisations to be taken seriously by the state, they need to be able to organise themselves collectively and to be able to demonstrate that they have transparent internal procedures and the ability to create a sound evidence base for their policy positions. Thus, a strategy to increase the space for civil society in Greece must also include investments in developing the organisational capacity of the sector. The capacity building needs of Greek civil society organisations are high. Apart from undermining their ability to contribute to the development of the sector, the low levels of professionalisation and coordination also limit the ability of organisations to respond to new circumstances caused by the crisis.

It is for these reasons that building the capacity of Greek civil society has become an important area of work for the Bodossaki Foundation. Through the EEA Grants NGO programme “We Are All Citizens”, the Bodossaki Foundation is channelling more than one million euros to capacity-building activities, including training seminars, networking activities, and skill sharing among NGOs. In collaboration with the Municipality of Athens, we will also soon launch a co-working space for NGOs in downtown Athens, with the aim of increasing collaboration and knowledge sharing in the sector.

Despite the scale of the challenges, we believe that there are grounds for optimism regarding the development of the sector. The crisis has acted as a wake-up call for Greek civil society. There has been a blossoming of new informal citizens groups and grass-roots organisations across the country, and established organisations are also reporting a surge in volunteers. Moreover, an increasing number of organisations are realising that they need to invest in capacity building and knowledge sharing: In this turbulent environment, collaboration is increasingly seen as an opportunity and not a threat. There are also indications that citizens are requesting more participation in decision making and have started becoming more involved in political and public life.

One could say that the civil society in Greece is coming of age and that the experience of being “stretched” by recent developments is leading to a maturing of the sector. Trying to find its place in such a socio-politically unstable environment will not be easy, and new and socially innovative approaches need to be explored in order to tackle the country’s vast and complex social problems. Foundations in Greece have a crucial role to play in supporting this evolution. By doing so, we will be helping not only to maintain the space for civil society today, but also to expand the space for the new generation of dynamic and committed civil society actors.

# The shrinking space for civil society

Nick Perks, Trust Secretary, Joseph Rowntree Charitable Trust

Like human rights, civil society space is both inherent and constructed. Our rights are not granted or gifted by governments, powerful men, large corporations or popular opinion - they are inherent to being human. Civil society is always already there, wherever people come together, wherever communities exist: "Sous les pavés, la plage (Under the pavement, the beach)."

At the same time, rights can be curtailed, abused, denied. Civil society space can be shut down, narrowed, oppressed. The exact nature of a free society has been much debated. Here is one test for me: Can a small group of concerned citizens come together for a social purpose without seeking or requiring permission from the state? A secondary question is whether they can pursue that purpose freely within the

law, without undue interference.

There is no doubt that there is a fairly widespread sense among UK charities and other civil society organisations that there is a shrinking space for civil society. I think this can be traced to four factors, listed here in no particular order:

- Comments from previous government ministers implying that charities should stick more closely to service delivery activities
- The language used by the Charity Commission (the UK regulator) about charities, highlighting and focussing on risks, and a shift in Charity Commission activity, faced with reduced staffing, to concentrating on compliance and enforcement
- Media attacks on charities
- The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (the "gagging bill" to its critics)

However, it is important to keep legitimate concerns about each of the above contextual changes from becoming self-fulfilling prophecies. The picture is always more complicated, and civil society space is expanding in some directions as it contracts in others. Here are four reasons to feel a little more optimistic:



Nick Perks has been Trust Secretary since August 2012, having previously worked for JRCT as Assistant Trust Secretary between 2001 and 2008. He has previously been a trustee of the Friends Provident Charitable Foundation and was the coordinator of the UK's Environmental Funders Network.

Mr Perks has a degree in English Literature from the University of Cambridge and holds post-graduate qualifications in management and consultancy. He is an active Quaker and has served the Quaker church in a number of capacities at local and national level. Mr Perks leads on JRCT's Power and Accountability Programme.

- Civil society is increasingly engaging with and influencing the private sector, and doing so more effectively than ever before. ShareAction's AGM army, which attends annual general meetings of corporations to raise awareness of environmental and social issues, and Carbon Tracker's stranded asset's research, are just two examples.
- Developments in Australian and New Zealand law have suggested a broadening understanding and definition of charity; and in the UK, the Charity Commission guidance on charity campaigning remains broad and permissive, much more so than in decades past.
- Economic inequality used to be only a party-political question. Today, thanks to Wilson and Pickett and Thomas Picketty, among others, it is recognised as a social and economic question of more general concern. Perhaps partly reflecting this, the UK Charity Commission recently registered The Equality Trust, which works to reduce economic inequality, as a charity.
- Support for a free and diverse civil society comes from many different quarters. Joyce Anelay, current Minister of State in the UK Foreign Office has written of her concern about more restrictive NGO legislation

around the world, and the need to protect civil society space. There is also hope wherever civil society itself is speaking up and speaking out.

Our task is not to fret about shrinking civil society space, it is to work together to enlarge it.

**It is important to keep legitimate concerns... from becoming self-fulfilling prophecies. The picture is always more complicated...**

# Civil society in France - Rising constraints and new opportunities

Frédéric Théret, Director of Marketing and Development, Fondation de France

Since the beginning of the 20th century, and the emblematic 1901 law on freedom of association, France has been a country of associations. There are over 1.35 million in our country, and several thousand continue to be created every year. These associations are the living tissue of civil society in action.

French citizens who are not members or donors of at least one association are a small minority. Whether it be for culture, the environment, education or social justice, associations engage in all fields of general interest, with various modes of intervention: direct support to places or people in need, raising awareness, lobbying, etc.

In recent times, the conditions in which associations live and develop have changed tremendously, due to four main factors: shrinking public funds, growing

administrative complexity, innovation and the rise of the circular and collaborative economies.

The restriction of public funding has led to a drastic transformation in the very model of associations. In France, civil society organisations, and especially associations, have been among the most severely hurt in budget restrictions at the local level. In 2013, the majority of funding for associations switched from public sources to private ones. At the same time, within the public funding element, another shift has occurred. Before, two-thirds of public funding for civil society organisations came in the form of subsidies and one-third in the form of public contracts. Now those figures have reversed. As a direct consequence, many associations, especially in the social field, have now become mere contractors or operators of public agencies and administrations, most worryingly losing part of their freedom of speech and action. The risk of associations being used in this way to answer public tenders is not to be ignored. Many associations have also been obliged to resort to membership fees or charging for services to their beneficiaries to fill the funding gaps.

Another strain on associations which, in France, goes back further than budgetary constraints, is growing administrative complexity. Not only is French labour law complex and ever in motion, but every aspect of association work has become far more





After graduation from a competitive French business school, Frédéric Thérêt started

his career in an advertising agency, where he took an active part in the creation of a structure dedicated to new technologies and multimedia applications. He was also involved in advising, on a strategic basis, large international groups such as Shell, Peugeot, and SFR. He then decided to devote his career to one-to-one marketing and networks and joined, in 2001, a new agency oriented towards fundraising and communication for non-profit organisations. In

2006, Mr Thérêt went to the Institut Pasteur where he was the Fundraising, Partnerships and Events Department Manager. He then joined Action Against Hunger France as Communication and Development Director. In 2012, he joined Fondation de France as Marketing and Development Director. He has been Treasurer of the French Foundations Centre, and is now member of the Board of the European Foundation Centre.

technical in recent years. The positive aspect of this evolution is the professionalisation of many associations, which is positive for them and for their beneficiaries. But administrative nightmares can also discourage very valuable projects or individuals when they don't have sufficient means to allocate time and resources to these tasks. This is also worrying.

All funders, private but also public, are becoming more and more focused on - if not obsessed with - innovation. This is tangible in calls for projects from public administrations specifically aiming at "innovative projects". Obviously, innovation is a powerful stimulus, and for many associations this renewed requirement has been an opportunity to review and refresh their methods and approaches. But this has also created uneasiness with others that legitimately felt they were accomplishing their missions consistently and seriously, but that innovation should not always necessarily be a condition for quality work. Why change methods that have proved to be effective and that have taken a long time to develop?

From another standpoint, tools and opportunities for individual engagement and action have developed dramatically. The rise of social media and circular and collaborative economies has created new ways for civil society members to interact, share, move, recycle and engage. Associations are not always the most relevant form, but many "collectives" or informal grass-roots groups

tend to develop instead. It seems that people, especially the youth, become more and more aware of their capacities and power as individuals through local engagement.

All in all, French associations have been led to review deeply their ways of operating. Although a lot of opportunities arise in this new context, the concerns are also many, funding probably being the most pressing one in that it has implications for the very model of associations.

Very recently and more specifically, the concern about the shrinking space for civil society has been focused on the consequences of the state of emergency instituted in the wake of the November 2015 terrorist attacks in Paris. The French government has explicitly warned the Council of Europe that this context might lead to some infringements of the European convention on human rights. If the obvious and important restrictions of individual liberties have generally been accepted by French civil society, it is due to the temporary nature of the restrictions. How the French government will manage to put an end to this state of emergency is now the real challenge, and at present there doesn't seem to be a consensus on that issue. Civil society organisations and individuals must therefore remain constantly watchful, if France wants to live up to its reputation as the country of human rights.



Since 2013, **Martín Abregú** has led the Ford Foundation's global grantmaking on human and civil rights; effective and transparent governance; democratic participation; strengthening civil society; and gender, sexuality,

and reproductive justice. He joined Ford in 2000, serving as Program Officer for human rights in the Santiago office. In 2007, he was appointed the foundation's representative for the Andean Region and Southern Cone, guiding grant strategy and programmes across the region. In 2010, he was named Director of Human Rights and Governance.

Before joining the foundation, Mr Abregú served for six years as Executive Director of the Center for Legal and Social Studies (CELS), a leading human rights organisation based in Argentina. Simultaneously,

he served as the Argentina representative for the Center for Justice and International Law (CEJIL), an inter-American human rights body that works across the hemisphere.

Mr Abregú has served as an associate professor of human rights at the University of Buenos Aires School of Law, where he graduated with a law degree, specialising in international law. He is also a graduate of American University in Washington, DC. He has been an Ashoka Fellow since 1995.

# Navigating our new normal

Martín Abregú, Vice President, Democracy, Rights, and Justice, Ford Foundation; and Hilary Pennington, Vice President, Education, Creativity, and Free Expression, Ford Foundation

## [A new normal, everywhere](#)

Fifteen years into the 21st century, the world has both outgrown and, at long last, grown into "globalisation". It's no longer some prospect of great promise or grave peril. It's the new normal, yesterday's news, the forecast that the weatherman, more or less, predicted correctly. What it has meant is that the world's relationships of influence continue shifting. New powers are emerging and exerting their gathering authority in new ways. Traditional powers - and western institutions, in particular - necessarily must engage differently.

At the Ford Foundation, this dispersal of influence is not a hazard to be feared, but rather a tremendous burst of creative, constructive energy to be harnessed. But we

also understand that for many of the world's most indispensable civil society organisations - the people's bulwark against the excesses of business and government - it's a call to arms, but also, at times, a cause for concern.

## [A new normal for the Ford Foundation](#)

As we've said before, we are excited about the challenge of learning, of adapting, and of recasting our work - in our headquarters, in our regional offices, in the philanthropic sector as a whole, and in active partnership with the individuals, institutions, and networks on the front lines of change.

For example, building stronger alliances with local actors is something we've always been interested in, and this new normal is forcing us to do what we've always known we needed to - listening to people, understanding voices on the ground. In this way, we can address a form of inequality that's long been present in our own work - how we balance our worldview with the local context of where we work while advancing human dignity in the places where inequality is most pronounced. For every lesson we've learned, however, more questions have come into clearer focus: How can we be more sensitive to local context, while staying true to our values? How can we protect our partners while preserving our standing in various countries? How can we respond to new barriers and continue to promote social justice?



**Hilary Pennington** leads the Ford Foundation's work on school reform in the United States and higher education around the world; next-generation media policy and journalism; and support for arts and culture. She is a national

expert on postsecondary education and intergenerational change. Before joining the foundation in 2013, she was an independent consultant whose clients included the Next American University project of the New America Foundation and Arizona State University.

Ms Pennington served as director of education, postsecondary success, and special initiatives at the Bill and Melinda Gates Foundation for six years. She was a Senior Fellow at the Center for American Progress and President and Chief Executive

Officer of Jobs for the Future, a research and policy development organisation she co-founded and worked for for 22 years. She also served on President Bill Clinton's transition team and as co-chair of his administration's presidential advisory committee on technology.

She is a graduate of the Yale School of Management, Yale College, Oxford University and the Episcopal Divinity School. In 2000, she was a fellow at Harvard's Kennedy School of Government.

#### A new normal for all

Of course, we are hardly the only ones grappling with these issues. Organisations around the world feel more vulnerable than even just a few years ago. The changing climate for civil society puts a tremendous amount of pressure on us all to do right by our grantees, and oblige governments to do so, even when their interests may be in conflict.

Yes, there are safety issues. Yes, there are security issues - and these should be taken seriously. But there also are issues of process, and compliance, and regulation, and transparency, and diplomacy. No longer can we lean on established precedents and fall back on our paternalist instincts - if we ever could.

Now we need to be more thoughtful, more creative, and, ultimately, more deferential in our response. We need to understand the multiple forces and factors interacting with each other in complicated ways. Most important, we need to listen - and engage our peers and partners in a serious conversation that acknowledges the needs of all parties involved.

#### A new normal for good

For our part, we're deepening our understanding of these issues by investing in research and analysis that will inform the next generation of our support for civil society organisations. What we learn will hopefully shed light on what we can do as a sector to better prepare ourselves, and our grantees, to adapt to the world's new normal.

Together, we can establish a new paradigm for philanthropy to match our new global paradigm, and work better and more broadly than ever before. Given the progress we have seen throughout the 20th and 21st centuries, we are hopeful and optimistic we can adapt to these challenges, and advance social justice for all.

**How can we protect our partners while preserving our standing in various countries? How can we respond to new barriers and continue to promote social justice?**

# The space for civil society is big enough - If we push for it!

Boudewijn de Blij, Director, Fonds 1818

In the Netherlands the space for civil society is quite big - there is no Charity Commission, and no restriction on the founding of charities or the way the investments have to be handled. From a European perspective the Dutch situation is extremely liberal.

The rules for charities have more to do with fiscal facilities, particularly important for donations by private persons to charity. Tax payers receive a tax rebate for their donation if the charity is registered as a charitable foundation with the Revenue Service.

On a national level some politicians are pushing for more control over charities. They seize opportunities such as small misbehaviours of board members of charities to ask for stricter legislation. The government does not comply immediately with such wishes, and is generally reluctant to introduce new legislation. A typical Dutch solution is found: a covenant.

The charitable sector and the government have signed a covenant called "Space for giving". That covenant is signed by the prime minister, the state secretary of justice, and the representatives of the fundraising charities, the endowed charities and the churches. This document addresses basically five issues:

- Better information exchange
- Better coordination of policies and investments, aimed at improving society
- Improving the infrastructure of the charitable sector
- More transparency in the charitable sector
- Improving the confidence of the public in the charitable sector

The last two issues have had the most effect on Dutch charities. With the typical Dutch approach of "self-regulation" it has been agreed that the different parts of the charitable sector would cooperate to write a code of conduct, with a common part for all and specific chapters for fundraising, endowed charities and churches. This code should have stricter rules for governance and transparency and would be policed by the sector itself.

Not all charities really like this approach. The fundraising charities are very dependent on the public and are willing to do nearly anything to improve public



**Boudewijn de Blij** studied industrial engineering at the Eindhoven University of Technology (MSc in 1978). In 1983, he started working for the Labour Party (PvdA) in the Lower House of the Dutch Parliament. He resigned from his position as Staff Director of the Labour Party Group in 1995, and subsequently took positions as Managing Director of the Dutch Foundation for Smoking and Health, and of the Netherlands Heart Foundation. In 2006, he was

appointed Managing Director of Fonds 1818, an endowed foundation in The Hague region of the Netherlands.

As well as working for Fonds 1818, Mr de Blij is also a Member of the Board of Stadsherstel Den Haag, Chairman of the Program Board of The Hague FM, and Member of the Board of Statenkwartier Energy.

He is married with two sons and lives in The Hague.

confidence. That is not so much the case for the endowed foundations. In that sector there is some reluctance to go along with these proposals. The FIN, the association of endowed foundations, has stated clearly that it will not apply these rules just for its members, the more well-known endowed charities. It should also be compulsory law for the charities that are not members of FIN. If not, a charity could evade all supervision by simply ending its membership of FIN. The government representatives agree in principle, but are not very eager to engage in the long and arduous process of lawmaking.

In the meantime, the funding of projects has just gone on. After a long period of budget cuts by central and local government, most cultural and social organisations are now developing new projects. They have more or less adapted to the situation of fewer subsidies and a more business-like approach. More organisations are now looking for funding by charities. Charities are reacting to this in different ways. Some have a stricter approach, others try to accommodate, but are restricted by available budgets. We see that quite a few subsidised groups have closed shop and that others are focusing on core business. In these cases, no funding is needed for extra projects.

Charities generally don't like to supplement the budgets of social and

cultural organisations that receive fewer subsidies - this gives them the feeling that their priorities are being defined by the authorities.

Locally the situation is not so different from the national one in that covenants are also made between charities and the local municipality. Local government, however, has no power to make regulations concerning charities, so the balance of power is less skewed than at national level. In some cases even the local businesses are involved in covenants. The arrangements are more focused on a few important local issues, or specific projects. Sometimes the municipality and charities work together to make a specific project possible.

My conclusion for the Netherlands is that in most cases charities with a clear understanding of their mission can fend off onerous government intervention with their projects. It is important to find a good balance between cooperation and defence against interference. In the Netherlands at least, most foundations have no trouble in finding that balance.



# Closing space for civil society creates new challenges for international grantmakers

Mary A. Gailbreath, Vice President Administration and Secretary/Treasurer,  
Charles Stewart Mott Foundation

Through four decades of supporting international charitable endeavours, the Charles Stewart Mott Foundation has witnessed the ebb and flow of civil society development.

In today's world, where humanitarian issues have become more complex and difficult to address, the need for philanthropy and civil society organisations to be able to work together across borders is greater than ever. Yet just when the need is greatest, challenges to the work are increasing.

Few would argue that charitable work fills critical gaps around the world. Governments alone cannot solve every social problem, businesses cannot meet every economic need, and private individuals can neither marshal the resources nor organise effectively to address the often overwhelming need for help. Without the system of sustained charitable giving that philanthropy supports, fewer children would learn to read and write, and more people would live in fear, poverty and poor health. The freedom for civil society organisations to participate in a global network of giving

is vital to maintaining a level of charity needed to help address such needs.

In my role as chief compliance officer for the Mott Foundation, my overall charge is to assist my board and programme staff in making grants that advance our founder's vision, as well as the organisation's values and code of ethics. My staff and I work diligently to ensure we are making grants in accordance with all laws, processes and customs of every country where we provide support. Further, we do all we can to assist our grantees in understanding and complying with the sometimes stringent and complex guidelines involved in accepting funds from our organisation.

Our foundation's commitment to addressing charitable needs outside of the US has always presented obstacles, including legal, language, technology and other barriers on both the donor and grantee sides. For instance, applying US tax classifications to charities that exist in what may be an entirely different legal and cultural context has long been a challenge for us and our fellow US-based international grantmakers.

And other restrictions, such as taxation on global philanthropy and pre- and post-grant procedural burdens, have become all too commonplace in many countries.

Because of the US Internal Revenue Service's (IRS) complex regulations, the





**Mary A. Gailbreath** is the Vice President Administration and Secretary/Treasurer of the Charles Stewart Mott Foundation, based

in Flint, Michigan. Ms Gailbreath joined the Mott staff in 2002 as grants manager. In 2010, she became Director of Grants Administration and Assistant Treasurer. She was promoted to her current position in mid-2015.

During her years with the foundation, she has become well-known in the philanthropic community for her expertise in compliance issues associated with international grantmaking and expenditure responsibility.

A certified public accountant, she holds a bachelor's degree in business administration from Eastern Michigan University in Ypsilanti.

A Michigan native, Ms Gailbreath worked for ten years as a manager at Arthur Andersen LLP in Ann Arbor, Michigan and three years at a family-owned real estate development company before joining the Mott Foundation.

process of making grants to non-US organisations continues to be challenging. Whether a private foundation opts to perform an equivalency determination or follow the IRS "expenditure responsibility" process, either approach is costly in terms of the time and expertise it requires. For instance, the Mott Foundation has spent in excess of \$650,000 for technology and consulting services to assist the foundation and our grantees in meeting counterterrorism requirements. Due to US sanctions in the Crimea region, we are cross-checking grantees' financial institutions against prohibited banks. Going forward, we also foresee the potential need to adopt increased due diligence processes recommended by the Financial Action Task Force.

Global politics also have created constraints so severe that they have interrupted - or forced us to end - an area of our grantmaking. Notable examples include the need for advance government approval to receive foreign aid, which caused us to suspend our grantmaking in Belarus, and the difficult decision we recently made to halt our grantmaking in Russia, precipitated by the Russian parliament's formal recommendation to the prosecutor's office to consider designating the Mott Foundation as an "undesirable foreign organisation".

The reality of balancing compliance costs and grantmaking expenditures with ever

more complex procedural requirements - both at home and abroad - are creating nearly insurmountable challenges for both grantor and grantee. Even for a larger institution such as the Mott Foundation, which has the resources to follow country laws and adopt best practices, these processes substantially increase the cost of making a grant and the time required to process it. This means that many smaller grants are so cost-prohibitive that they simply will not be made. And it means that many smaller foundations, without the resources to comply with all of the laws, regulations and best practices, may have to stop making international grants altogether.

When Mott and other private philanthropies cannot make international grants in a timely and cost-effective way, we lose momentum toward achieving our charitable goals. But our concern is never for ourselves and the challenges we face in making grants. Rather, our fear and deep sorrow is that the closing space for civil society is keeping aid from the people who need it most.

# About the EFC

The EFC is the platform for and champion of institutional philanthropy - with a focus on Europe, but also with an eye to the global philanthropic landscape.

We support our members, both individually and collectively, in their work to foster positive social change in Europe and beyond. Our European and global perspective on institutional philanthropy and the landscape it inhabits gives us a “helicopter view” that presents a unique opportunity for us as an organisation, hand in hand with our members, to reflect on, understand, engage with and together strengthen the environment for philanthropy.

Established in 1989 by 7 foundations, the EFC now represents more than 200 philanthropic organisations, including foundations and corporate funders.

[EFC Policy and Programmes](#) brings together the EFC’s capacities for building intelligence on and for institutional philanthropy; connecting our members with relevant partners and stakeholders, including decision-makers; and brokering opportunities for collaboration and public policy engagement.

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