



SHRINKING SPACE FOR CIVIL SOCIETY:

What Can Civil Society Do to Combat This?

As shown on the CIVICUS world map, alarm bells are ringing for civil society – worldwide. The network has classified all countries in which civil society is severely restricted by the degree of restriction. The characteristics of „shrinking space“ are manifold. The term refers to restrictive legislation and administrative hurdles for civil society organisations, but also to surveillance, intimidation, threats, defamation of civil society actors critical of the government and, in some cases, even extends to include arrests, bodily harm and murder. Nationalist and autocratic governments in particular constrict the sphere of civil society, but governments in ostensibly democratic states and influential private sector actors can also do so. According to the CIVICUS Monitor, 109 countries face restrictions on civil society. One in three people lives in a country in which civil society cannot freely express itself or act without hindrance. And this sphere is completely closed off to nearly one in ten people.

Analysis: What are the reasons for this and what are the challenges?

State rulers have a number of options available to them to countermand a society's fundamental rights. For example, governments may use anti-terrorism legislation to restrict or fully eliminate freedom of assembly, association and expression in a country. They may obstruct demonstrations by citizens or access to conflict regions or mining projects, shutter or dispossess media organisations or ban certain languages and cultural or religious traditions. They may confiscate passports from NGO employee and activists, even in the case of invitations from abroad, thereby eliminating freedom to travel. Those who nevertheless choose to go often face harassment or arrest upon their return.

In addition, governments may use administrative hurdles, disproportionate legal controls, legislation against foreign funding and tax laws to try to dry up NGOs financially and control their income. Non-profit organisations are often then only able to receive funding from abroad if they register to do so. To gain control over an NGO, some countries even demand that NGOs disclose their funding sources, employees, areas of activity or supporters to a disproportionate degree – something that violates personal rights and data protection. If NGOs fail

to comply, they face losing their licensing, fines or arrest. Organisations' bank accounts are frozen or transfers have to be authorised by the authorities for each individual transfer. Without financial resources, many organisations are then forced to stop working.

Even more perfidious and life-threatening are attempts by those in power – often teamed with companies or militias – to criminalise activists and NGOs or threaten them psychologically or physically. Local NGOs receiving support from abroad or that do not represent the government's positions may be branded as subversive, anti-nationalist or as aiding and abetting foreign agents. They may be blamed for poor economic figures or an unstable political situation. Government agencies also spread rumours, “fake news” and allegations of corruption. These kinds of defamatory campaigns, often associated with other means of repression, endanger the personal safety of those being attacked and often lead to organisations even censoring themselves. A destroyed reputation also polarises society, which further weakens civil society work, and scares off donors and supporters.

However, state donors and foreign governments share responsibility for restrictions on civil society in many countries. To implement its own trade policy or geostrategic interests, safeguard the supply of raw materials and energy or (currently) to curb the flow of refugees coming to Europe, the German government and the EU occasionally work with undemocratic and repressive governments or at the very least quietly accept their human rights violations, which weakens civil society in these countries.

The growing interdependence between politics and the economic sphere and Germany's inconsistent and even contradictory human rights policies may weaken civil society in many countries. Nevertheless, Germany has committed itself to safeguarding human rights through international agreements. However, instead of laws that would hold German companies operating abroad accountable, the norm continues to rely on self-commitment by companies themselves, as with the German National Action Plan on the Economy and Human Rights (*Nationaler Aktionsplan Wirtschaft und Menschenrechte*).

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Food for thought: Possible action strategies and responses

A) WHAT AFFECTED NRO CAN DO.

1. Find Strategic Allies:

➤ In the population at large and the general public, through:

... transparent information: NGOs should make their work transparent and go on the offence in publicly and comprehensibly quashing rumours or denunciations, otherwise such rumours would only remain an underlying problem. This threatens their reputation, backing and funding.

... providing information and finding support through discourse: NGOs should do more to bring issues into the public sphere and not leave this to the populists. They should provide clear messages to the public (which is often disillusioned in restrictive states) on how each individual person can contribute to a functioning civil society and how they can benefit from a functioning civil society. NGOs could make greater use of social media for this.

... bringing their message closer to the basis of society: NGOs should consider themselves part of social movements and should consistently work together with local communities and self-organised groups. NGOs have to take local implementation structures seriously, involve them in their work and mobilise them where necessary.

➤ With other NGOs, through:

... solidarity, cooperation and coalition building instead of competition: NGOs should seek out one another along a common denominator – a minimum consensus or common basic interests (such as gender or peace) – and then cohesively represent that common denominator. NGOs are less vulnerable when they band together.

... specifically encouraging a willingness to reconcile civil society groups, including NGOs, in post-conflict countries.

... agreement within civil society with the NGO to a code of conduct to which everyone is bound.

➤ With the media, through:

... offensive media work: In countries where freedom of the press is guaranteed, NGOs can get in touch with media editors and staff. They can serve as a source of information and make grievances public.

➤ In the country's executive and legislative branches, through:

... informal contact with sympathetic ministerial staff, members of parliament or former civil society activists who currently hold political office.

... NGOs should make clear to government representatives how the country would benefit both societally and economically from a functioning civil society and remind them of their obligations. Many countries have signed international (human rights) accord and SDGs.

➤ In diplomatic missions:

... embassies and international organisations can prove to be key supporters of local civil society groups. Regular discussion with them may also increase protection for vulnerable actors.

2. Communicate better and differently:

➤ In and with (majority) society: NGOs should seek out a new or at least expanded discourse so that NGOs and the country's societal base can more closely align with one another (key words: What really matters to the people).

➤ NGOs and other civil society actors such as trade unions, religious groups, social movements or internet activists should seek out and foster dialogue among one another. After all, civil society actors have a range of different action strategies, interests and values: having a better understanding of one another prevents division within civil society and promotes solidarity and consensus building.

➤ NGOs should make greater use of social media to exchange information, make counterarguments, provide facts and offer advice.

➤ NGOs should better protect themselves in their digital communications and should handle information from vulnerable partners in the south sensitively.

➤ NGOs should generate publicity, perhaps through documentation or making individual cases public. Human rights organisations, even if they often prove ineffective, may be suitable partners since they often document such cases.

➤ NGOs can enter into alliances of solidarity through intercultural bridge builders like migrants in neighbouring countries or general diaspora communities in order to highlight abuses.

3. Pursue legal recourse and consider the following as options:

... NGOs should not avoid and shy away from litigation. Instead they should go on the offensive and seek them out and demand, sue for or, where necessary, mount legal challenges for national/international agreements and human rights legislation.

... NGOs should involve observers.

... NGOs should work to ensure legal recourse – in general

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and in specific cases. If necessary, NGOs could, for example, advocate for the creation of a hybrid court that is not bound by one national judicial system, but instead represents a combination of national and international law.

... NGOs with legal skills could help other NGOs in court cases or provide training on judicially relevant topics.

4. Diversify sources of income:

... NGOs with lawyers on staff could offer external legal services, for example. This would make them less dependent on donors and laws limiting financing options for their human rights work.

... NGOs could seek out support from businesses or foundations that want to support local CSR measures.

... NGOs could even work under a different legal form as for-profit organisations, thereby evading funding barriers.

B) WHAT PARTNERS OF AFFECTED NGOS CAN DO:

1. Amend programme objectives, content and implementation to suit the challenges arising as a result of the restriction of civil society's scope for action (re-strategising) through:

... a stronger focus on protecting human rights and bolstering civil society in their programming (funding, budgeting and requests by donors for reporting and evaluation).

... capacity development: resiliency training, digital security courses and legal training, for example on communication skills in legal language.

... a new audit focus: Evaluators could also examine whether and how human rights legislation and the SDGs are being implemented in projects. If the local partner fails to achieve some project goals due to restrictions on civil society's scope of action in the project land, northern NGOs could take this into account in the audit and justify this to donors.

... long-term commitment: institutional support and doing away with three-year project terms.

... building up local leadership.

... educating the private sector on the consequences of investing in countries with autocratic regimes that restrict human rights – and point out possible damage to their image in doing so.

2. Establish protective mechanisms and/or raise awareness of and make accessible existing mechanisms:

➤ Provide emergency funds for affected partners that can be used to quickly and unbureaucratically help relocate vulnerable employees, obtain legal advice, develop security concepts, etc.

➤ Provide psychosocial support to affected partners.

3. Openly express solidarity and take a stand:

➤ Take a clear stand against relevant governments in consultation with the NGOs affected.

➤ Put pressure on the private sector in the home country so it takes its social and economic responsibility seriously in the country of production/investment, and remind the private sector of possible damage to their image. This can also be done through the media at home and abroad.

➤ Provide moral support for affected partners and comment on rumours.

➤ Where possible, use consultations prior to government negotiations to push for the adoption or implementation of human rights legislation.

4. Provide supportive measures:

➤ NGOs from Germany can provide first-hand, up-to-date information to representatives of the German government (parliamentary delegations, the German Federal Ministry for Economic Cooperation and Development, the German Federal Foreign Office) or economic delegations prior to foreign trips on the human rights situation, or organise meetings with local NGOs.

➤ NGOs and foundations can make a stronger commitment to funding projects to protect human rights and human rights activists and projects to strengthen civil society.

➤ Take care not to put partners in danger when communicating with the affected partners and requesting information (whether by email, in attachments or by phone).

The recommendations are the result of an expert workshop with NGO representatives from Europe, Asia, Africa and Latin America which was jointly organised in May 2017 by Forum Menschenrechte, the German NGO Forum on Environment and Development, the Civil Peace Service Consortium and VENRO.

