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Practice Note: Egypt and the Catalyst of Constraint

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In the past few years, more than 50 countries have considered or enacted restrictions on civil society. The first wave of constraints occurred after the “color revolutions” in Central Europe. The second wave occurred in the wake of the Arab Spring. In their current manifestation, constraints target: (1) the freedom of assembly, (2) the formation and operation of civil society organizations (“CSOs”), and (3) the foreign funding of CSOs.

Since Egypt’s recent crackdown on civil society, Russia, Pakistan, Bangladesh, Algeria, Kyrgyzstan, Venezuela, and Zimbabwe are a few of the countries that have considered or enacted restrictions on civil society. We avoid imputing causation, recognizing that constraints are rooted in the context of each country. But when globally significant countries impose constraints, a contagion effect often follows. Accordingly, there is concern that Egypt’s crackdown will embolden additional governments to adopt restrictive measures, just as Russia’s restrictive CSO Law added momentum to the first wave of civil society legal constraints several years ago.

I. Typologies of Constraint

Civil society is confronted with a disabling legal environment in scores of countries.² As a threshold matter, in many countries the law impedes the ability to form CSOs. For example:

- In Qaddafi’s **Libya**, the death penalty could be imposed for forming independent groups.
- In **Turkmenistan**, 500 citizens are required to form national-level associations.
- In **Eritrea**, local CSOs engaged in relief and rehabilitation are required to have access to one million US dollars – which is more than 20,000 times monthly per capita GDP.

Governments also employ registration laws to constrain civil society:

- In **Bahrain**, a CSO can be denied registration if “society does not need its services or if there are other associations that fulfill society’s needs in the field of activity.” This provision has been used to deny registration to human rights groups.
- In **Russia**, a gay rights organization was denied registration on the grounds that its work “undermines the sovereignty and territorial integrity of the Russian Federation in view of the reduction of the population.”
- In **Belarus** and many other countries, it is virtually impossible to register a CSO, and operating an unregistered organization is a criminal offense.

Even when CSOs manage to register, governments often impose limitations on their activities:

- In **Uganda**, a CSO must give “seven days’ advance notice in writing” of its intent “to make any direct contact with the people in any part of the rural area of Uganda.”
- The law of **Equatorial Guinea** prohibits CSOs from engaging in human rights activities.

Countries also seek to impede foreign funding and international contact:

- In **Ethiopia**, a 2009 Proclamation prohibits CSOs receiving more than 10 percent of their funding from abroad from advancing human rights, children's rights, disability rights, or gender equality.
- In **Jordan** and elsewhere, foreign funding must be preapproved by the government.
- In **Egypt**, in addition to prior approval for foreign funding, CSOs must obtain government permission to affiliate with any foreign organizations.

II. Recent Developments

Since 2011, countries have imposed restrictions in three general areas. First, many countries have restricted the freedom of assembly. For example:

- In February 2012, **Belarus** imprisoned an activist who displayed teddy bears carrying protest banners.
- **Malaysia** adopted a law banning street protests, among other problematic provisions.
- **Uganda** revived a bill requiring permission for three or more people to assemble to discuss "the principles, policy, actions or failure of any government, political party or political organization."

Second, a number of countries have considered or enacted restrictive legislation burdening the formation and activities of CSOs. For example:

- In January 2012, **Algeria** adopted a new *Law on Associations*. Under this law, registration can be rejected if the association's activities are not in the "general interest." In addition, the government can suspend a CSO if it determines that the organization interferes with the "internal business" of the country.
- In violation of domestic law, in February 2012 the Governor of Masvingo Province in **Zimbabwe** required CSOs to enter into Memoranda of Understanding, and he announced the suspension of 29 CSOs that refused to do so.
- In early 2011, the government of **Cambodia** released a draft law that prohibited unregistered organizations and contained no criteria limiting government discretion to deny registration.
- In 2011, countries including **Egypt, Libya, Tunisia, Sudan, Iran, Syria, China, Cuba, Ethiopia, and Vietnam** imposed Internet restrictions impeding the work of CSOs and civic activists.

The third, and perhaps most common, trend relates to constraints on foreign funding. Egypt reflects the zeitgeist of constraint, but Russia, Pakistan, Bangladesh, Algeria, Kyrgyzstan, Venezuela, and Ecuador are a few of the other countries that have considered or adopted foreign funding restrictions. Among other examples:

- In **Russia**, the Duma recently held a hearing on the foreign funding of civil society, and in February 2012, the Federal Service for Financial Monitoring issued an order calling for additional financial monitoring of Russian and foreign CSOs.

- In **Pakistan**, a bill on the foreign funding of CSOs was presented to the Senate in February 2012.
- **Bangladesh** is currently considering a Foreign Donations (Voluntary Activities) Regulation Act. Though based largely on existing constraints, the Act raises concern because it requires organizations to receive project approval to undertake activities with foreign funding, among other problematic provisions.
- The January 2012 law in **Algeria** impedes associations from receiving foreign funding.
- In December, **Kyrgyz** Parliamentarians introduced a draft law to give the government broad discretion to establish procedures governing foreign aid.
- In **Venezuela**, recipients of USG funding have been labeled “enemies of the revolution” and warned that they face imprisonment or “popular justice” – a significant threat in Caracas, which has one of the highest murder rates in the world. In addition, an antiterrorism bill explicitly referencing CSOs is awaiting President Hugo Chavez’s signature.
- In 2011, **Israel** considered foreign funding restrictions that would have disproportionately burdened independent human rights groups.
- In July 2011, **Ecuador** issued a Decree prohibiting *international* organizations from receiving bilateral or multilateral funding to implement activities in Ecuador.

In summary, recent months have marked a continuation of the “associational counter-revolution” that began in the last decade. While there has been progress in some countries, in many others, restrictive laws have been considered or enacted. In response, ICNL is engaged with country partners and the international community to help preserve safe legal space for civil society. For further information, please see www.icnl.org.

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² For a more comprehensive summary of constraints, please see the report “[Defending Civil Society](#),” which ICNL drafted in conjunction with the World Movement for Democracy Secretariat at the NED.