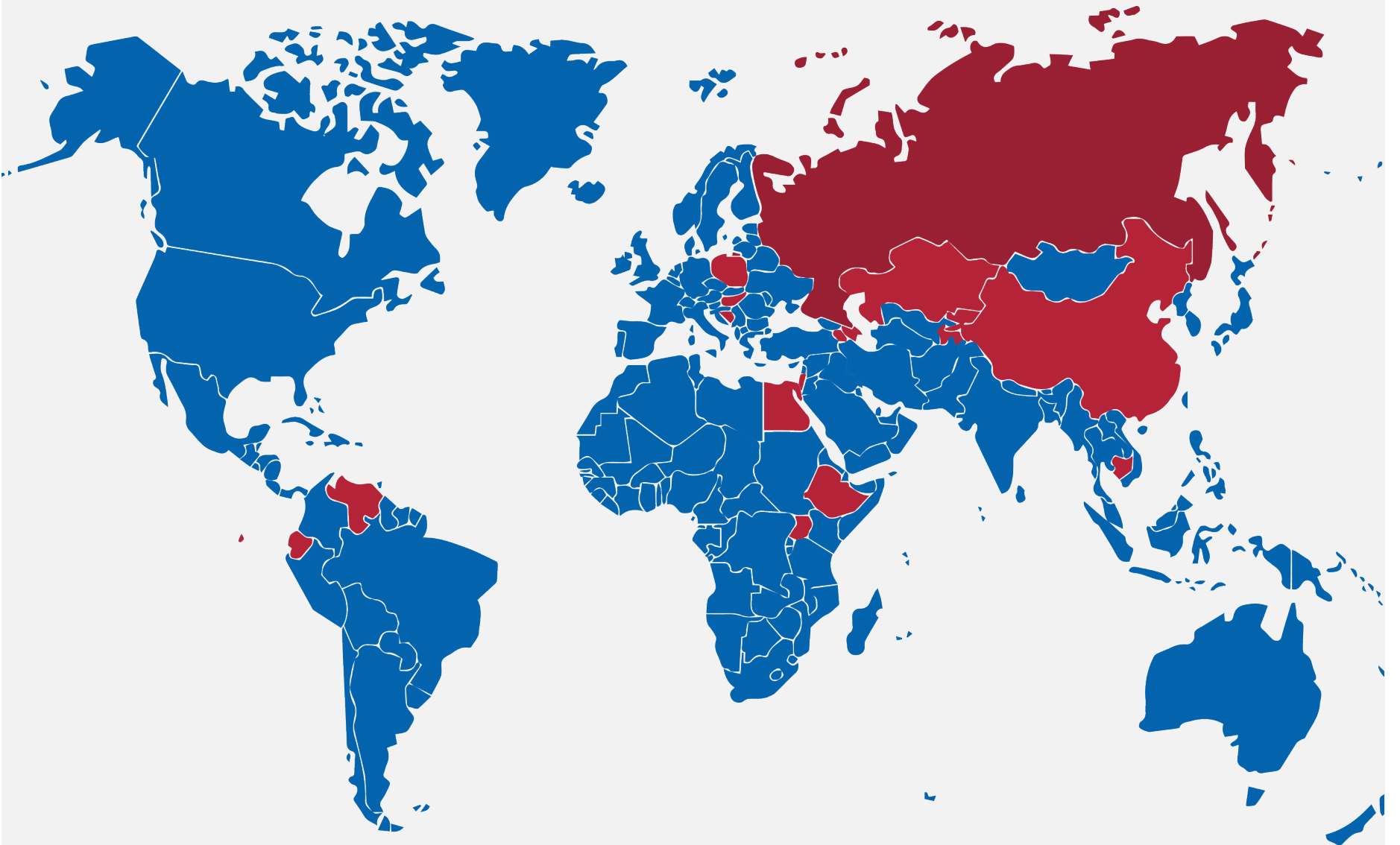


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RUSSIA



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RUSSIA'S **BAD** EXAMPLE

by Melissa Hooper with assistance from Grigory Frolov

Free Russia Foundation
Human Rights First
February 2016

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ABOUT FREE RUSSIA FOUNDATION

Free Russia Foundation - is a nonprofit, nonpartisan, nongovernmental U.S.-based NGO that coordinates pro-democracy Russian communities abroad, assists Russian political opposition and civil society and informs U.S. and European policy makers about the events in Russia. Established in December 2014 by a team of like-minded people who were forced to leave Russia in recent years, Free Russia Foundation seeks to be a voice for those who can't speak under the repression of the current Russian leadership.



ABOUT HUMAN RIGHTS FIRST

Human Rights First is an independent advocacy and action organization that challenges the United States to live up to its ideals. We believe American leadership is essential in the global struggle for human rights, so we press the U.S. government to respect human rights and the rule of law at home and through its foreign policy. When that fails, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.



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EXECUTIVE SUMMARY

Since the start of Vladimir Putin's presidency in 2000, Russian authorities have been continually reducing the public and legal space for civil society institutions, particularly human rights groups, NGOs, opposition movements, media outlets, and journalists. However, since the beginning of his third term in 2012 the number of laws and policies restricting freedom of assembly and association, freedom of expression, the right to liberty and personal and information security has dramatically increased. Concerned by revolutionary actions in Ukraine and mass protest rallies on Bolotnaya and Sakharov squares in Moscow, the Russian leadership sent a clear message that any act of resistance will have serious legal and even criminal consequences, which has resulted in an unfortunate successful crackdown on Russian civil society.

Predictably, the effectiveness of these new laws, together with a very limited reaction by the international community, set a bad, but popular example for other authoritarian-leaning regimes. For decades Russia remained a country without an ideology to export. Now Putin's Russia has realized that it can capitalize on its foreign policy goals of sowing democratic discord and countering an universal human rights discourse by disseminating, or at least promoting its unique system of suppression of opposition, NGOs and media.

This example was followed not only by other post-Soviet countries traditionally influenced by Moscow, but also by the Eurosceptic governments of several Eastern European countries, and a diverse range of countries worldwide, led by Egypt in the Middle East, Venezuela in Latin America, China in Asia, and Uganda and Ethiopia in Africa. The list of countries that are analyzed in this paper includes Azerbaijan, Kyrgyzstan, Tajikistan, Kazakhstan, Armenia, Bosnia, Egypt, Ethiopia, Uganda, China, Cambodia, Venezuela, Ecuador, though it is expanding every day, and could now include India, Kenya, Hungary, Poland, or even Israel.

Legitimized by reference to national security threats by foreign governments, Russian-style anti-NGO laws (or "foreign agents" laws), and laws suppressing freedom of assembly and expression are being widely discussed and implemented over protests by pro-democracy activists, human rights groups and NGOs. Legitimized by reference to protection of children, anti-LGBT propaganda laws and other forms of "traditional values" legislation are being passed over the objections of anti-xenophobia and minority community protests.

These legislative and policy developments threaten the global state of democracy and human rights, and merit a clear response from Western democracies and the United Nations (UN):

- The United States (US) and the European Union (EU) should consistently support civil society within these countries, by for example encouraging and supporting international coalitions of NGOs, recognizing that civil societies in closing societies are attempting to move their countries toward more democratic and human rights-based norms;
- The US and other UN countries should work together to oppose these trends as a global coalition and have a common strategy to deal with undemocratic countries; for example, this could include giving NGOs a larger role and more official status in the UN;
- The US and other democratic states should recognize that the philosophy underlying these restrictions on civil society, and its assertion of norms in opposition to the idea of a universal human rights philosophy, is itself in danger of spreading, and should act strategically in its prevention by highlighting their own observance of these norms, incorporating them into the Sustainable Development Goals, and through other mainstreaming methods.

RUSSIA'S BAD EXAMPLE

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Free Russia Foundation
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INTRODUCTION

There is little more threatening to authoritarianism than massive protests signaling that citizens are fed up. In Russia, the most recent spell of protests in 2011 and 2012 began as a signal of Russian citizens' outrage at the corruption endemic to their country's elections. The catalyst was the joint announcement by then-President Dmitry Medvedev and then-Prime Minister Putin that they had previously agreed to place Medvedev in power for four years simply as a "placeholder" until Putin could return, in order to avoid violating the term limit laws. When they announced that Putin, having overcome the term limit, would be returning to the presidency, paying little attention to the fact that there would have to be an actual election, the public became enraged. They were enraged that they had been duped by Medvedev into believing that their society was becoming freer (because they had believed Medvedev was a real president whose policy changes would stick), and they were enraged because their leaders had made it clear that what citizens wanted or chose didn't matter, that politics would always be decided and orchestrated at the top.

The protests saw 100,000 people take to the streets¹, and not just typical activists, but regular people, including relatively well-off Russians (thus one paper dubbed the protests the "Mink Revolution"). Russia had not seen this many people in the streets since the break-up of the Soviet Union, and, what was worse, the protestors had a point. The protests began in December 2011, in the wake of the joint Medvedev-Putin announcement and then again in direct response to parliamentary elections, during which a newly mobilized citizenry volunteered as election monitors, documenting widespread voter fraud. The protests continued into the following March during the presidential elections, in which "serious problems" and widespread fraud took place, according to independent monitors. The protests culminated in the Bolotnaya Square incident on May 6, 2012 as Putin took office, which led to the arrest of dozens of non-activist citizens on heavy-handed charges. Indeed, arrests were ongoing even in late 2015 related to the May 6 demonstration.

Taking power amid protests, rather than widespread welcoming cheers, was not what Putin had in mind. He had already spoken of his concerns that the West had orchestrated "color revolutions" in Georgia, Ukraine, and Kyrgyzstan in the early 2000s. He had for years been discussing the perils of allowing foreign funding into the country to support non-governmental organizations (NGOs) and their "political activity". Indeed, he targeted these two issues when his government passed a 2006 NGO law that significantly expanded the government's authority to audit NGOs and further restricted NGO activity. He had voiced his "categorical" objection to foreign funding of "political activity" in Russia. And recently, he had witnessed the Arab Spring protests, which only fueled his fear of foreign meddling and concern that the protests' contagion might spread to the former Soviet Union. So, he did what authoritarian leaders do in these circumstances, he cracked down.

RUSSIA'S BAD EXAMPLE

In addition to arresting dozens of ordinary, non-activist citizens who had attended the Bolotnaya protest, Putin passed a harsh anti-protest law² in his first month in office. But instead of making provisions for lengthy prison terms for protestors who participated in “unsanctioned” protests, the law authorized exorbitant fines, intended to make a person think twice before going out into the street. An individual could be fined up to 300,000 rubles (the equivalent of \$9100) for participating in a protest that had not been specifically permitted. An organizer of such a protest could be fined up to 600,000 rubles (\$18,000), and an organization that supported a protest- up to 1 million rubles (\$30,000). With an average annual salary of about \$19,000 to 20,000³ (about 685,000 or 700,000 rubles) at the time, citizens were forced to ask themselves whether it was worth risking a year’s worth of earnings to express their discontent⁴.

After the annexation of Crimea, Russian officials apparently determined that bankrupting those critical of the government was not enough; they decided that they also needed to imprison them⁵. They passed another law in June 2014 allowing imprisonment of up to 5 years for “repeat” violations of protest laws, which prohibited even one-person pickets⁶. While four individuals have been charged under the law in the year and a half since it was passed, the first conviction was obtained in December 2015 when Moscow court sentenced Ildar Dadin to three years in jail for repeated anti-government protests (the other three that have been charged are: Vladimir Ionov, Irina Kalmykova, and Mark Galperin).⁷

The protest law, however, was not the only new tool the Russian government added to its anti-NGO arsenal. In fact, it was just one instance of what Amnesty International described as a “raft of repressive



The opposition rally in Moscow, February 2, 2014/ Photo: Reuters

legislation” passed in the months that followed Putin’s return to the presidency⁸. In July, Putin signed a new and fiercely restrictive law regulating NGOs, described as “choking freedom” by Human Rights Watch and a “recipe for disaster” by the Moscow Times. Amnesty said it was designed to “stigmatize and discredit” civil society. And it was. The law⁹ required any NGO receiving foreign funding that engaged in “political activity” – a term that was not defined - to register as a “foreign agent”. The foreign agent term harkened back to Soviet times when it was synonymous with “foreign spy”. The understanding was that if your organization was receiving foreign funding, you were doing the bidding of a foreign government – and this meant you were acting against the interests of Russia.

That same month, Putin signed the federal anti-LGBT propaganda law¹⁰, which prohibited (as had eleven regional propaganda laws passed before it) the distribution of content to minors which presents LGBT relationships as equal to heterosexual relationships. A few months later, in November 2012, as the foreign agent law was coming into effect, Putin signed yet another law which widened the definition of treason to include sharing information that could threaten Russia’s security with international organizations.¹¹

While the situation remained tense that winter, the foreign agent law did not begin to be enforced until March of 2013, in response to a speech Putin gave to the Ministry of the Interior, that many took as urging for them to take action against threats in the NGO sphere, hundreds of NGOs were raided that spring and summer by Ministry of Justice officials, often accompanied by tax officials, prosecutors, and media from state-run NTV. Organizations were asked to copy and turn over thousands of pages of financial and programmatic documents that were supposedly needed to gauge compliance with various laws, usually overnight. The law led to the trials of dozens of organizations for violations of the law – i.e. failing to register as foreign agents despite receive foreign funding, and engage in “political activity” such as educating citizens of their rights or engaging in shadow reporting to UN bodies. Many NGOs also filed lawsuits against the police and Prosecutor’s office for improprieties in the process of deeming them foreign agents.

The Russian government finally tired of the arduous process of fighting the lawsuits, and in June 2014 changed the foreign agent law to allow the Ministry of Justice to place NGOs on the foreign agent list if they suspect the organization receives foreign funding and engages in political activity.¹² Investigations were no longer necessary.

Then, in May 2015, the government passed the long-anticipated partner to the foreign agent law: the undesirable organizations law¹³. While the foreign agent law targeted local Russian NGOs, the undesirable organizations law targeted foreign organizations, banning them from conducting activity in Russia or providing support to local NGOs if they were deemed threatening to Russia’s security or constitutional order. The language of the law was again left open to interpretation -- how international organizations might be a threat to security was not described or specified. Furthermore, once placed on the list an organization had no legal recourse, the law provided no opportunity to appeal and no body to appeal to. The law also specifically prohibited local organizations from accepting funds from banned undesirable sources, allowing prosecution of organizations that accept resources from these banned funding sources, presumably as a way to pick off organizations that had somehow avoided the foreign agent registry. It was a foolproof plan for preventing unwanted foreign influence: attack the sources of funding and attack those who receive it.

The dual legal front was largely successful at curtailing much NGO and human rights activity. Currently more than 100 Russian NGOs are included in the foreign agent registry, labeled as foreign spies, and subject to incredibly restrictive audits and programmatic limitations. This includes those funding scientific research (the Dynasty Foundation), and foundations that support media (Sreda Foundation), as well as internationally-known human rights groups (ADC Memorial in Moscow and HRC Memorial in Saint Petersburg), environmental, minority, and women’s groups. Well-known NGO funding bodies such as MacArthur Foundation and Charles Stewart Mott Foundation voluntarily shut down operations in Russia, rather than wait to be placed on the undesirable

organizations list. The first organization to be placed on the undesirable organizations list, the National Endowment for Democracy, was arguably one of the largest funding contributors to human, civil and political rights NGOs in Russia. It was soon joined by the Open Society Foundations and Open Society Assistance as well as the U.S. – Russia Foundation. Those that have not been placed on the list, such as the Eurasia Foundation, Freedom House, NGOs focused on fostering political parties, and NGOs focused on the Ukrainian diaspora, have been targeted by Duma members who call for them to be investigated in connection with the law.

Adding to the coordinated legal assault on local community and rights organizations and international NGOs, in 2014 the Russian government mounted a third approach. It turned its attention to independent media, again targeting foreign influence and funding. Laws passed over the last few years restrict media outlets to no more than 20% foreign ownership¹⁴, and allow blacklisting of websites without notice or a hearing¹⁵, while a recent law likely to pass will require media outlets receiving foreign funding to register as foreign agents like their NGO counterparts.¹⁶ One new law requires that websites such as Google, Facebook, and Twitter actually move all servers containing data pertaining to Russian citizens to Russian soil by 2016¹⁷. It is unclear whether these companies will or can comply. Laws also restrict what content media can publish, with anti-extremism laws modified in 2015 providing for huge fines for media that publish “extremist” information. This, combined with changes to many media outlets that put Kremlin-friendly figures in directorial or editorial positions, has almost destroyed Russian independent media. As a result, the Russian state maintains firm control over what people in Russia see and hear – and what they don’t.

Finally, following the annexation of Crimea and Russian involvement in the separatist conflict in Eastern Ukraine, the treason law¹⁸ has suddenly been increasingly invoked as an additional tool against those unpopular with the government. Since 2015, individuals can be – and have been – prosecuted for treason, terrorism, separatism, and extremism for simply expressing opposition to the annexation of Crimea, for passing out

leaflets about police brutality, for writing pro-Ukrainian poems, managing a Ukrainian library, for being an LGBT activist who expresses an opinion about homophobia online, or for being a supporter of independent media.. The treason and extremism laws are now handy tools used to prosecute opposition figures, activists, NGO workers, and regular people who happen to get in the way of state policies. Almost every week now Russian media reports on a civil society figure who has felt compelled to flee the country because state media accused them of engaging in “industrial espionage” (Nadezhda Kutepova, head of an organization, Planet of Hope, formed to advocate for rights of citizens affected by a nuclear plant and radioactive materials storage), because they fear false prosecution for fraud after colleagues were arrested (Vladimir Osechkin, head of Gulagu.net - a prison monitoring organization), being called a spy and threatened with loss of her children (Evgenia Chirikova, environmental activist who helped organize opposition to construction of a highway through the Khimki forest) or being evicted for holding a fundraiser for Bolotnaya prisoners (Marat Guelman, an art gallery owner and activist).

The government, in prosecuting these cases, has been able to make political use of the terms “traitor” and “fifth column”, applying them to those who disagree with the government’s basic ideology in order to make examples of individuals that lead to widespread self-censorship in word and action. Even those that support the work of an organization would now think twice before voicing this support openly. This method of isolating NGOs and human rights organizations from public support has proven effective. Citizens have largely stopped going out into the streets to join the protests organized by those they consider “traitors”, and have stopped joining and supporting the work of NGOs, which they more and more believe to be part of a “fifth column”.

Indeed, candidates running for election to regional parliaments in September 2015 found themselves labeled “Nazis” and “traitors” for raising concerns about corruption in the upper echelons of government. The deep acceptance of these terms, and of the idea that “enemies of the state” do exist in the NGO community, has taken a dangerous turn. Individual NGO members

and activists now feel that their fellow citizens view them as “traitors” – as they are often described in the cases and by political figures. Whereas they have withstood legal challenges to their work without much concern, NGO members and activists now express a fear for their own physical safety in response to threats not only from the government but from fellow citizens.

The combination of legal restrictions and reframing of the work NGOs do as threatening to the safety of the state has devastated the NGO community in Russia. Russia now has one-third fewer NGOs than it had three years ago.¹⁹ Dozens of NGOs have shut down as a result of the foreign agent law, including women’s organizations, Jewish organizations, youth organizations, environmental organizations, legal organizations, and those providing civic education. The Committee Against Torture, which investigates disappearances and rights violations in the North Caucasus, voluntarily shut down after being placed on the foreign agents list and then having its office in Grozny first firebombed in December 2014 and then attacked by masked men in June 2015. A number of organizations have tried to restructure themselves to avoid the laws, registering the organization offshore, forming a commercial entity, or becoming a lawyers’ bureau, which need not register, but there are risks associated with these options, and they continue to fear reprisals. Many NGOs continue to fight the law in the courts; though challenging the existence of the law is no longer an option in the Russian court system since the Constitutional Court ruled that the law is constitutional in April 2014. Complaints lodged by several organizations in the European Court of Human Rights have yet to be heard.

However, if and when the European Court does hear the petitions of Russian NGOs challenging the foreign agent law, (where it would likely find that the law violates articles 10 and 11 of the European Convention on Human Rights -- freedom of association and expression -- and the human rights principles of necessity and proportionality) its opinion would have no legal effect inside Russia. This is because in December 2015, Russia’s State Duma passed a law asserting the primacy of Russian Constitutional Court rulings over those of international tribunals, particularly

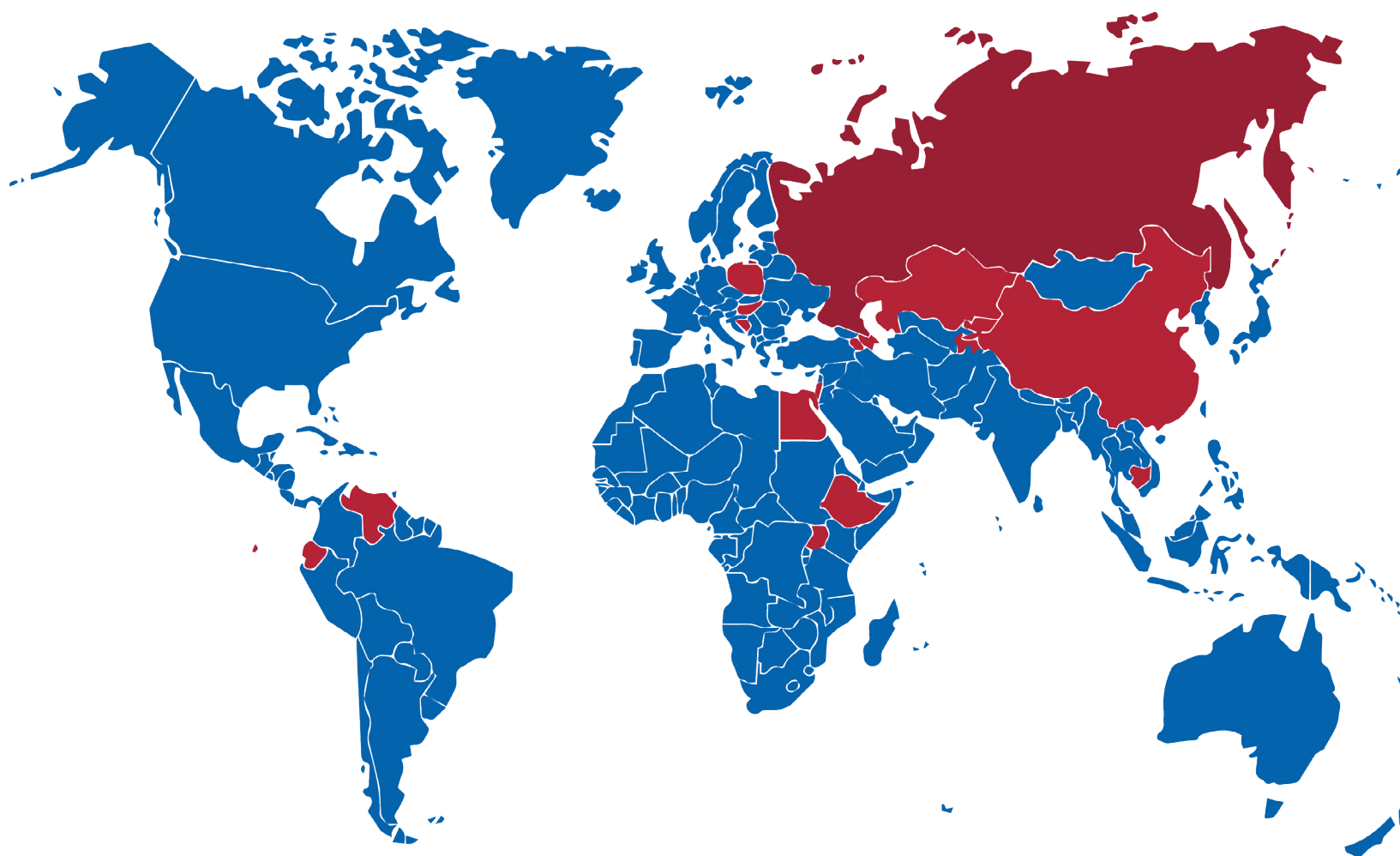
the European Court of Human Rights. This effectively rendered the long list of controversial laws passed under Putin unassailable, and limited the impact of the European Court, the only international justice institution with any real legal influence in Russia.²⁰

The Russian government has thus almost entirely stamped out any avenues for expressing dissent, or even an alternate view. NGOs and community service organizations face threats to their existence through loss of funds, and threats to their physical and organizational safety due to legal restrictions that can shut them down and land individuals in detention, or media campaigns that label them enemies of their own country. Independent media, having been cut off at the knees, lacks the financial support, bandwidth, or at this point willing personnel, to report on facts unpopular to the government. And the media that does exist is so tightly controlled by the state that it contributes to the state-approved half-obscured portrait of reality, in which organizations that once provided the only method of successfully reporting a police killing, the only effective assistance for people with HIV, and the only support for ethnic minorities are called traitors for their work taking on work the government declined to do.

While we have yet to see how the future unfolds, with Russia’s financial situation unclear, it is clear now that Russia’s attack on civil society has been successful. Indeed, Russia seems to have been so successful that other nations began emulating it.

OTHER COUNTRIES FOLLOW RUSSIA’S LEAD

Russia’s unfortunately effective crackdown on civil society not only brought misfortune to the country’s local NGOs, journalists, and human rights defenders, but has also had much broader and more nefarious consequences. This was especially true after the Maidan events in Ukraine, when local governments in



the former Soviet region, as a reflex, felt their fear of revolutions increase. By demonstrating that it could stifle dissent and essentially silence critics – or even possible critics – without much of a response from the international community, Russia has set a bad example for other authoritarian or semi-authoritarian regimes looking to cling on to power by cutting their fledgling civil societies at the knees. RFE/RL called it a “cascading effect” as other governments in the region adopted the Russian government’s strategies, which had begun with the restricting 2006 NGO law, and led to an all-out assault against NGOs from 2012. Thomas Carothers called it an “asphyxiation of independent space – fewer voices, self-censorship, closing down of organizations,” and Amnesty International identified the current situation as a “seismic shift and closing down of human rights space not seen in a generation.”

Recent examples of governments cracking down on civil society space include the following countries, both in and outside the former Soviet sphere, from Africa to Asia, to Latin America, and beyond.

Azerbaijan

Azerbaijan was an early adopter of this model, perhaps drawing lessons from an earlier wave of NGO restrictions enacted by other nations in the former Soviet Union (Russia, Uzbekistan) in 2005 and 2006 in response to the first “color revolutions” in Georgia, Ukraine, and Kyrgyzstan. In 2009, it passed a law requiring that NGOs obtain prior agreement from the Ministry of Justice that the organization respects Azerbaijan’s “moral values” and is not engaged in “political or religious propaganda” before it can obtain registration. As a result of the law, a number of organizations have had to stop activities because they have been unable to register, or have had to attempt registration up to eight times before achieving success.²¹

In March 2013, additional amendments to the NGO law went into effect that prohibited NGOs from receiving foreign funding over AZN Manat 200 (185 Euro) without prior approval from the Ministry of Justice. The law also required that all funding be received through a bank transfer, which required that all organizations open an account in a state bank that could further control

access to funds. The requirement of bank transfers made it difficult for unregistered NGO to receive funds, forcing them to open themselves to legal risks in order to operate. This created a situation ripe for a crackdown, which began, perhaps not coincidentally, just before the October 2013 presidential election, widely regarded as corrupt.

Prior to elections, civil society saw an intensification of repressivemeasuresintendedtocontroldemonstrations and expressions of government criticism, for example based on the government's rampant destruction of property displacing many citizens at the time.²²In September 2013, the parliament passed amendments to freedom of assembly laws that included a Russian-style restriction, which increased fines for participating in an unsanctioned protest to AZN Manat 500 to 1000 (\$380 to \$760), where an average monthly salary is AZN Manat 400 (\$304). Organizers could be fined from AZN Manat 1500 to 3000 (\$1140 to \$2280) and organizational sponsors AZN Manat 15,000 to 30,000 (\$11,400 to \$22,800).²³ This was a 70-fold increase in the applicable penalty.

Beginning ahead of the elections, and continuing into 2014,dozensofNGOleaders,journalists,andopposition figures were arrested, especially those leading human rights and election-monitoring organizations, such as the Election Monitoring and Democratic Studies Centre, Legal Education Society, and the Human Rights Club.²⁴ After the elections, the government went to work to pass additional restrictive legislative amendments, adopted in December 2013 and in October 2014. The amendments required that unregistered NGOs register grants with the Ministry of Justice and imposed further limitations on foreign influence and funding. For example, the "legal representative" of an NGO could no longer be a foreign citizen, unless the citizen had lived in Azerbaijan for more than two years. In March 2014, the Head of the Law Enforcement Department of the Office of the President, Fuad Aleskerov, declared that foreign organizations such as Freedom House, Human Rights Watch, Amnesty International, and Transparency International make false claims in their reports and apply a double-standard to their evaluations. He stated that there should be no cooperation with these organizations and that Azerbaijan must combat

the misinformation that these foreign organizations present.

While the crackdown surrounding the election was apparently effective in preventing human rights defenders and journalists from effectively calling out local corruption, human rights-violations, and election irregularities too loudly, the government still undermined its own claims of foreign foul influence, when the presidential election results were announced by the government a day before the polls even opened.

²⁵

From 2013 to 2015, almost 40 human rights activists, journalists,andoppositionfigureshavebeensentenced to between 5 and 8 years imprisonment based on false drug and firearm charges, charges of "state betrayal", actions directed to incite ethnic, religious, or racial hostility, organization of mass disorder, or tax fraud and other business offenses – though a few were charged with treason. The trials, most of which occurred in 2015, led to sentences of 6 to 8 years for most civil society leaders, effectively keeping them out of the government's hair for a good while – and preventing them from organizing and developing the next generation of human rights defenders and election monitors. In addition, a number of organizations and individuals had their bank accounts frozen, prohibiting them from receiving any funds or engaging in any activity.

In 2014 the Prosecutor General's office opened investigations into a number of foreign NGOs on charges of abuse of power, and froze the bank accounts of other organizations which resulted in their closure, including IREX, Oxfam, and the National Endowment for Democracy, Transparency International, and the National Democratic Institute.

Kyrgyzstan

Kyrgyzstan also saw the benefits of the Russian model, possibly as a means of undercutting the activism of its revolution-prone population. Rolling back recent achievements in transparency and openness, Kyrgyz media, largely influenced by Russian media (and largely delivered in Russian) began to broadcast the same messages against fifth column influences

and national traitors, in support of a need to protect against foreign influence (oddly, Russian influence is not deemed foreign influence in this view) that could harm Kyrgyz interests. In 2014, NGOs came under intense surveillance, which led to prosecutions of some on charges of trying to foment ethnic unrest (by conducting interviews about the prevalence of hate crimes)²⁶. In May of that year, a law very similar to Russia's foreign agent law was introduced, called the draft law on Foreign Agents²⁷, which would – like the Russian law it was modeled after – require registration and public labeling (and stigmatization) of NGOs that receive foreign funding, opening these NGO's up to onerous financial and reporting requirements, just like the Russian law. The law passed on its first reading in June 2015, and will likely go up for second reading by the new parliament in December of this year.

Kyrgyzstan also began considering an anti-LGBT propaganda law (law number 6-11804/14) that essentially parrots the Russian law, proposing criminal and administrative penalties for presenting “homosexual lifestyles” in a “positive way”. Also in June 2015, the Kyrgyz Parliament voted 90 to 2 to pass the propaganda law in second reading²⁸. It must pass one more reading before being sent to President Atambayev for signature. It is likely the President will sign it.

Tajikistan

Tajikistan also followed the Russian model, passing (in a process shrouded in secrecy) its own amendments to the law on Public Associations in June 2015. The amendments require that organizations notify the Ministry of Justice when they receive grants or other forms of assistance from foreign entities²⁹. The law was signed by the president in August 2015³⁰. However, prior to signing, and immediately after passing of the law in parliament, the Ministry of Justice began notifying NGOs that it would be conducting visits within a few days to review and check documentation and compliance with other legal requirements. In 2014, Tajikistan also passed amendments to the Law on Meetings, Rallies, Demonstrations and Marches, apparently reflecting a fear of foreign influence. The law now prohibits foreigners and “stateless persons”

from attending public events. The Tajik Minister of Justice asserted that these measures were necessary to combat the financing of terrorism and corruption.

Kazakhstan

In January 2015, new Criminal and Administrative Codes came into effect in Kazakhstan, prohibiting involvement with unregistered public associations, broadening reasons for denying registration to or shutting down organizations, and introducing criminal penalties for participation in unsanctioned public demonstrations – all in line with the Russian approach. The law also increased the number of offenses applicable to NGO leaders and faith leaders, who can now be sentenced to up to 6 years in jail if they fail to register their organization, if their organization receives funding while unregistered, or if the organization is deemed to interfere with state institutions.

A draft NGO law had been considered by Astana in 2014, but seemed to stall as the country vied for consideration as a possible host for the 2022 Olympics. After losing that opportunity, a new draft law was introduced³¹, and swiftly approved by the lower house of parliament in late September and by the Senate in early October. The new law will establish a single state operator, through which all funding to NGOs must be channeled, allowing for review and possible denial of funding from sources the government deems suspect – similar to the Azerbaijan model.

In addition to restrictive NGO laws, Kazakhstan introduced a Russian-style anti-LGBT propaganda law in 2014³². In May 2015, the Constitutional Court rejected the draft law, stating that it was unconstitutional because of its vague wording. The rejection of the law was widely thought to be tied to Kazakhstan's bid to host the 2022 Olympic Games. Having lost the bid to host the games to China, all eyes are on Astana now to see if the bill will be reintroduced.

Armenia

Armenia also began considering legislation to further restrict NGO activity and funding in 2014. The legislation would subject all NGOs to rigorous and onerous financial reporting requirements and thorough audits

each year. It would also increase the reasons the Ministry of Justice could use to shut down an NGO, and allow the Ministry to sit in on all NGO board meetings. The introduction of this legislation was widely viewed in Armenia as the result of increased Kremlin pressure on the government to bring civil society in line after the events of Maidan in Ukraine³³. In May 2014, Russian Ambassador to Armenia, Ivan Volinkin, declared that any NGO that “created obstacles” to Russian-Armenian relations ought to be “neutralized.” More recently, in February 2015, Director of the Russian Cooperation Agency Konstantin Kosachev complained that about 350 Armenian NGOs were undermining Armenia’s relationship with Russia by encouraging Armenians to embrace “European values.” Yet, seemingly wary of the impact of the legislation, the Armenian parliament has not passed it, despite voting to join the Russia-led Eurasian Economic Union under pressure from Russia on January 1, 2015.

In January 2015, U.S. Ambassador to the OSCE, Daniel Baer, highlighted U.S. “concern” over the increased restrictions being placed on NGOs in Central Asia. However, he failed to note the wider trend these countries were following, or that the leader of this trend was very likely their neighbor in the north.

The U.S. also failed to comment on the proliferation of similar free speech- and free association-limiting laws outside the former Soviet region. It seems that it is not just countries with legal and political histories tied to Russia who have taken note of its successes in rolling back democratic movements and snuffing out criticism with impunity.

Bosnia

In May 2015, Bosnia began considering a draft law that would restrict NGOs receiving foreign funding. It was so similar to the foreign agent law passed in Russia that activists nicknamed it “Putin’s bill”³⁴. Citing a greater need for financial transparency by governmental and non-governmental entities, the Bosnian government introduced the bill, which would impose increased controls over NGOs that receive foreign funds, and create a regime of fines and bans for NGOs that are deemed to be “politically engaged” – mimicking the language and goals of Russian law punishing the

“political activity” of NGOs. The government coupled this with the introduction of another bill that tightened requirements for public demonstrations. To top it off, parliament passed a law in February 2015 that introduced fines for disruptive social media posts³⁵. The parliament stated that media was a public sphere where peace and order need to be upheld, thereby justifying sanctions against those who express critical opinions^{36,37}.

The influence of Russia evident in the draft legislation was also on full display as the country struggled through mass protests over unemployment and lack of economic reform in 2014. After protests in February 2015, pro-state media accused a number of NGOs, media outlets, and individuals of being “foreign agents” supported by foreign countries to undermine the government. The government then published a list of organizations it deemed to be “destroying the constitutional order” of the country.

Egypt

Over the last few years, Egypt has been waging the latest in a series of repeated crackdowns on NGOs. The most recent round of restrictive measures included the introduction of draft legislation that severely limits protests and subjects protestors to huge fines. It also essentially prohibits NGOs from engaging in any “political activity” and subjects public associations to financial reviews and intense reporting requirements – similar to those outlined in Russia’s foreign agent law. In July 2015, the Ministry of Social Solidarity announced that it had finalized a draft Law on Associations and forwarded it to the Council of Ministers for review³⁸. While the draft was not made public, the Ministry had announced the provisions of a draft in June 2014, which was widely criticized by human rights groups, and many assume that these problematic provisions remain in the draft law. That draft imposed restrictions on foreign funding of NGOs and limited their ability to collaborate with organizations abroad. It prohibited all associations from engaging in “political activities” – a vague term that is left undefined (as is in the Russian law). Violations are punishable by up to one year in prison and fines of up to EGP 100,000, the equivalent of \$13,985. The draft also required that all

NGO activities, including board decisions, be subject to review by a government entity that has veto power over all actions, and authorized the government to stop the organization from engaging in any activity or reverse any decision. Moreover, the draft law stipulates the state security agency could completely dissolve associations or deny them registration if they deem that the group's activities would threaten "national unity." International NGOs must obtain explicit permission to operate in the country, and cannot do so if they receive government funds, infringe on national sovereignty, or seek to disseminate the "outlooks or policies of a political party".

Currently, NGOs operate under Ministry Order 84, issued in summer 2014, which carries its own restrictive regime, including a prohibition on NGO engagement in "political activities" and requires specific prior approval if the NGO wants to affiliate with a foreign organization or receive foreign funds.

In addition to the NGO law, Law 107 on the Right to Public Meetings, Processions, and Peaceful Demonstrations was passed by presidential decree in November 2013. It allows security officials to ban any protest on the vague grounds that they have received "serious information or evidence that there will be a threat to peace and security". The law also gives the Interior Ministry authority to ban any meeting "of a public nature" of more than 10 individuals in a public place, including meetings related to electoral campaigning; it does not allow for any exceptions. Participants in public meetings can be imprisoned for two to five years and fined 50,000 to 100,000 EGP (\$7,200 to \$14,500) for, among other things, "impeding the interests of citizens, or harming them or exposing them to danger or affecting their ability to perform their rights or their work, or influencing the course of justice, or public facilities, or blocking roads or public transportation...."³⁹ These terms are vague and remain undefined, leaving enforcement up to the discretion of the authorities, and increasing the likelihood of self-censorship as individuals and organizations attempt to understand the confines in which they are now operating. This type of self-censorship in the face of vague laws that frighten civil society into inhibiting its own actions, is just the type of strategy Russia has perfected.

Israel

Reinforcing the point that NGO restrictions related to foreign influence are indeed the new normal, Israel – generally not considered to be an authoritarian regime – as of late 2015 has introduced a draft law on the issue. The law would require foreign-funded NGOs to label their documents as supported by foreign funding when providing them to lawmakers, and require members of foreign-funded NGOs to physically wear tags labeling themselves when they visit the Knesset. Echoing Russia's own arguments in support of its foreign agent law, Justice Minister Ayelet Shaked, the sponsor of the draft law, alleged that foreign funding of organizations is "undermin[ing] [state] sovereignty and identity."⁴⁰

Ethiopia

Ethiopia adopted its restrictive law in 2009, creating a registry for organizations and regulating them heavily. All organizations must register, and can be denied registration if their activity is deemed prejudicial to the "public peace." In order for foreign organizations to register, they must obtain a letter of recommendation from the Ministry of Foreign Affairs. Organizations that receive more than 10% of their funds from international sources are essentially prohibited from engaging in any human rights activities. However, all NGOs are prohibited from engaging in advocacy on behalf of "human and democratic rights." According to ICNL, 133 organizations were closed in 2014 involuntarily because they lacked funds to continue their activities⁴⁰.

Uganda

A 2013 Uganda law increased the state's police powers to prohibit public meetings and to choose venues for meetings that are permitted. All NGOs must register annually, through a cumbersome process that involves obtaining recommendations from government officials, thereby preventing much human rights-focused activity. When conducting their work, Ugandan NGOs must also work with local government councils and district committees. The organization may be dissolved almost at will by the government. Ugandan parliament introduced more restrictive draft laws in both 2014 and 2015, based on Ethiopia's law, but so far the draft law has not passed. If passed, it would require registration

with an NGO Board that could close the NGO at any time if it deems the organization to engage in any act “prejudicial to the interests of Uganda.” All foreign employees would need to be vetted by the government before employment. In addition, a 2014 law criminalized “promoting homosexuality” thereby targeting all NGOs working on behalf of the LGBT community.⁴¹ This law was widely recognized to have support, and possible guidance, from a religious right movement with ties to the United States – and to Russia.⁴²

China

Since Xi Jinping became president of China in March 2013, the country has been actively developing measures aimed at controlling NGOs, foreign influence, and perceived threats to government power. Xi introduced a national anti-corruption campaign, a campaign encouraging ideological orthodoxy in state entities, and a rule of law campaign, all of which were said to be necessary for national security, and all of which exhibited a strong nationalist tendency. On July 1, the government passed an anti-terrorism law authorizing “all measures necessary” to protect the country from hostile action⁴³. The Xi administration has indicated its desire to build a national civil society that it says reflects Chinese values, and not the civil society values of the West, which focus on individual rights and liberties.

As in the former Soviet space, the fear of foreign influence and of challenges to government authority has been a driving force in the current spate of restrictive legislation. On May 5, 2015, the government released the “Foreign/Overseas Non-Governmental Organizations Management Law of the People’s Republic of China (Draft)” or FNGO Draft Law for public comment ⁴⁴. Though the stated purpose of the law is to “standardize and guide the activities carried out by foreign NGOs within China, protect their lawful rights and interests, and promote exchange and cooperation”, the law actually imposes increased restrictions on NGOs – both foreign and domestic – since the law also restricts the activity of local NGOs receiving foreign funding. Notably, the law transfers supervision of NGO activity from the Ministry of Civil Affairs to the Ministry of Public Security, thereby treating NGOs as a national

security threats, putting NGO activity on a par with counterterrorism actions. Indeed, when describing the law at an April National People’s Congress in April, a spokesperson said its main goals were actually “safeguarding national security and maintaining social stability.”⁴⁵

Under this law, the number of NGOs will be limited to those that are approved by the authorities and are willing and able to accept the restrictive registration, reporting, banking, and hiring requirements in the law. In addition, all NGOs will be required to work with a local sponsor organization selected from a restricted list. This will likely further restrict the number and type of NGOs, since there is little incentive for supervisory organizations to assume these duties, and there are limits as to how many NGOs they can practically supervise. NGOs will also be required to submit annual reports outlining their planned activities for the coming year for prior approval, as well as comply with strict financial reporting requirements. The law restricts fundraising by foreign NGOs within the country. It also contains a provision prohibiting foreign NGOs from subverting state power, undermining ethnic harmony, engaging in separatism, or disseminating information deemed to harm state security or damage national interests. The vague wording of the law, which does not define what constitutes a “foreign NGO” and what “activities” are regulated by the law, leaves an opening for corrupt or political enforcement.⁴⁶

President Xi Jinping has repeatedly cracked down on those who promote a Western concept of human rights. Last October, the former head of a reformist think tank was detained. In June, two members of a group promoting the rule of law were arrested. In March, five feminist activists were arrested for attempting to organize a coordinated public event in various cities which were timed to occur with national political meetings. And in the last few months of 2015, several hundred civil rights lawyers were detained.

Cambodia

In August 2015, Prime Minister Hun Sen of Cambodia promoted and passed a new Law on Associations and Non-Governmental Organizations, which was widely criticized as the product of a closed process

that did not involve civil society.⁴⁷ The new law makes NGO registration mandatory for both domestic and international organizations, gives the Ministry of the Interior unfettered discretion to allow or disallow NGO registration, and requires that all NGOs maintain “political neutrality.”⁴⁸

Venezuela

Venezuela belongs to the first wave of countries restricting NGOs, having enacted restrictive NGO laws in December 2010, providing leadership for this trend in the region. The Law for the Defense of Political Sovereignty and National Self-Determination criminalizes NGO work which defends political rights, and prevents organizations that defend these rights or that “monitor the performance of public bodies” from receiving international funds or possessing any assets.⁴⁹ Organizations that receive funds from abroad must pay additional fines and sanctions for doing so. The law also allows the government to expel foreigners who “offend institutions of the state, top officials or attack the exercise of sovereignty.” If an NGO hosts a person that violates this provision, the representative of the NGO will be fined and will lose his or her “political rights” for five years. In defending the law, former President Hugo Chavez argued that he needed to prevent “political parties and NGOs [that] continue to be financed with millions and millions of dollars from the Yankee empire....”⁵⁰

Non-governmental non-profits in Venezuela fall under the purview of - and therefore are restricted by - laws supporting counter-terrorism measures. The Organic Law on Organized Crime and Financing of Terrorism, allows the government to establish mechanisms to “fight against foreign countries that may destroy the country through media, economical, or political means.”⁵¹ When the 2012 law was passed, the United Nations High Commissioner for Human Rights, Navi Pillay, expressed concern that it placed NGOs under “permanent surveillance” and restricted foreign funding.⁵²

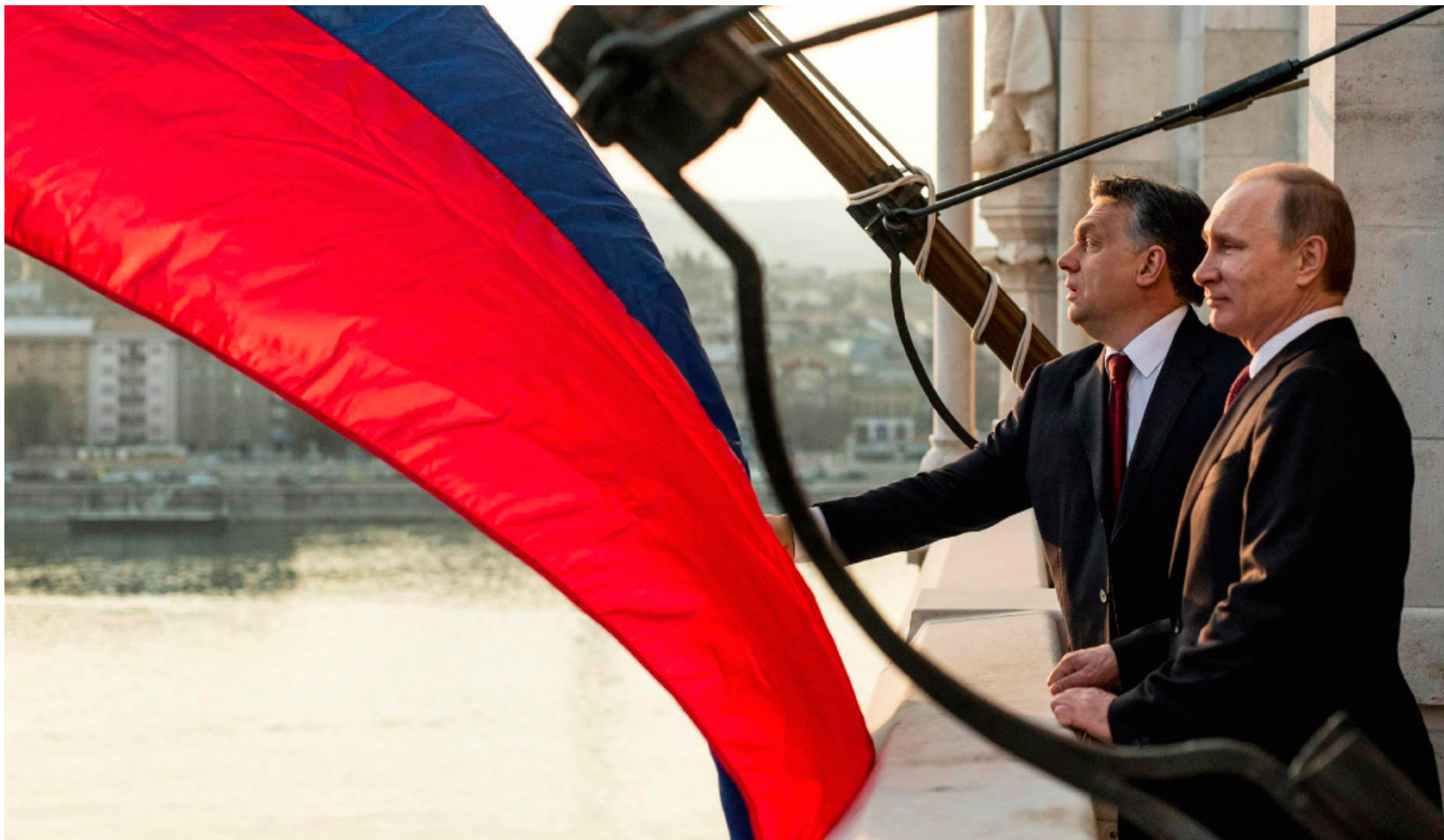
Ecuador

In 2013, Ecuador – which had already followed the example of Russia, Venezuela, and others to restrict

NGO activity in 2010 – instituted Executive Decree 16, which gave the government greater authority to review and restrict the activity of any NGO. The law allows government officials to intervene in operations, authorize or veto staffing decisions related to high-level positions, and shut down the organization if its activity “interferes with public policies” or “undermine[s] national or external security of the state.”⁵³ The NGO must also report all foreign funding, and file certain types of information to be placed in an electronic Unified System of Information of Social Groups for monitoring. It must submit to regular review by a government panel to ensure it only carries out “authorized work.”

According to the 2013 law, international groups that seek to work in Ecuador must request permission from the Technical Secretariat of International Cooperation and provide information on the “purposes and work” they wish to carry out in the country, including their bylaws, in Spanish. International groups are prohibited from engaging in activities that “undermine security and public peace” – terms which are not defined.

As a result of the law, a major Ecuadoran NGO that receives funding from the United States, Fundamedios, was recently ordered to shut down because the government alleged it engaged in “partisan political activities.” The government has also closed environmental and indigenous rights organizations under the 2013 law⁵⁴. Furthermore, free speech rights were severely curtailed in 2013 as the result of the Communications Law passed that year. The law granted the government broad powers of censorship, stating that social media was a “public service” to be provided “with responsibility and quality” and cited a constitutional right to information that is verified, precise, and contextualized.⁵⁵



Russian President Vladimir Putin and Hungarian PM Viktor Orban are raising the Russian flag over the Hungarian Parliament, February 17, 2015 /Photo: Viktor Orban Facebook page

CONCLUSION

This list of restrictive laws that follow the “Russian” model of aiming to decrease or eliminate foreign funding for NGOs altogether and to prevent NGO participation in activity deemed “political” is, sadly, non-exhaustive. The use of severe restrictions to aggressively and negatively label NGOs that receive foreign funding, engage in activity that might fit within the vague term “political activity”, or that participate in public demonstrations to voice their dissent, exhibits a trend so far-reaching that it is no longer a trend, but could be considered the new normal, extending to India, Mexico, Pakistan, and Sudan. The focus on foreign funding as a nefarious threat and a method of undermining pro-authoritarian governments has seeped into Europe, where it has become a tool of a Euroskeptic regime aspiring to illiberal governance: Hungary. In September 2014, Viktor Orban’s government in Hungary began raiding NGOs and think tanks critical of the government’s policies on women’s rights, LGBT rights, and corruption. Orban argued in a speech after

the raids that they were necessary to prevent these “activists financed from abroad” from attempting to influence elections with foreign money.⁵⁶ Hungary’s actions are not only concerning because of their effect in Hungary, but also because Hungary is now serving as a model for other Euroskeptic regimes,⁵⁷ such as Poland, where threats to the rule of law have come in the form of limits on free media, a re-make of the composition of the Constitutional Court, removing checks on the government’s power.⁵⁸ The unfortunate by-product of this reaction against Europe’s support of the rule of law may be disunity around issues such as refugee resettlement in response to the current crisis, and may lead to even wider-ranging rifts in EU politics, an outcome that would be welcomed by Russia.

The new normal is one in which the rights of free speech and free association are being redefined. We are seeing more challenges to an individual rights model, the model prevalent in the West, and more acceptance of the Russia-championed model of rights being awarded at the discretion of the State. According to this model, set

up intentionally by Russia as an alternative to Western ideology, these rights are not automatically enjoyed by the individual: they must be granted by the state, and they can be curtailed, or completely eliminated if their existence is seen to threaten the security of the current regime – meaning the ability of that regime to hold power over its political rivals. Russia's influence, through direct financial support, offers (and pressure) to join regional associations such as the Eurasian Economic Union, and media messaging in Russian language, has led once-fledgling democracies of the former Soviet Union to see the benefit of this model to preserve state power. With the rise of political parties based on conservative values in Europe, Russian-modeled methods of pushing “traditional values” have seemed an obvious political choice, even in countries that are not particularly pro-Russian, such as Poland.

Beyond the former Soviet Union and Europe, in other parts of the globe that face legitimate security concerns related to terrorism and extremism, the Russia-championed model of exploiting this concern for security of the state has become dangerously contagious. Legitimate security-oriented fears are now used to fan the flames of overreaching restrictions on civil society, and to justify clampdowns on advocacy that has as its goal to simply push the state to do its job to protect and serve its people. The unfortunate consequence of this new norm is that information is restricted, policies are not challenged, and ultimately societal growth may be stunted.

As much research has noted, NGOs often improve the functioning of society by taking up activities in sectors where the government is failing. They identify problems and gaps in policies with their criticism, and in doing so they push the law and society to be better, more responsive, and more effective. They therefore also help improve the government's image by generating greater public satisfaction with societal and institutional functioning.

Prohibiting NGO participation in the sphere deemed to be “political” by these regimes not only violates the rights of freedom of expression and association of organizations and individuals, but also has the practical effect of impairing the functioning of NGOs, and of

society. If civil societies cannot learn best practices from other communities, they cannot share these with their governments, and push for changes and improvements that spur growth and innovation. And in many countries, NGOs that cannot receive foreign funding are likely to cease to exist – which might mean that constituents (such as victims of domestic violence, individuals with HIV, or minority communities) will not be able to receive services which are also not prioritized by the government, leading to further dissatisfaction with the regime in power.

With this trend proceeding worldwide, the United States and the European Union must take note of the Russian example, and address it. Other Russian methods, such as the restriction of LGBT communities through the use of a “propaganda law” or the exponential increase in treason and extremism charges against perceived opposition leaders, might be the next global trend. As authoritative regimes – and those adopting their strategies – learn from each other, they currently remain a step ahead of regimes that might be able to counter this trend and support civil societies and universal human rights globally.

The United States and the European Union must pay attention to this trend, and should act in response, for at least three reasons, and in at least three ways. First, they should seek to support fledgling civil societies within these countries, recognizing that these civil societies are attempting to move their countries forward toward more democratic and human rights-based norms. Even if they are not currently successful, they should not be cut off completely from the support of international civil society, which can help them improve their work and strategies so they may be more effective in the face of restrictions, and in preparation for a time when restrictions wane. Therefore, the U.S. and EU should strive to support international partnerships and fora that bring members of civil society together across repressive and non-repressive regimes, to share strategies and to provide an outlet for ideas and support. U.S. and EU support might take the form of stewarding international or regional gatherings or supporting lines of communication rather than direct grants that put NGOs at risk in-country. These gatherings might use as a model the existing EU-Russia Civil Society Forum⁶⁰ or the Civic Solidarity Platform.⁶¹ They might also include online communities

– where online presence can be safely protected. And they should include diaspora communities, such as the large Russian diaspora that exists in places like the U.S., London, Ukraine, Lithuania, and elsewhere. These individuals often know the Russian strategies most intimately, and have worked for many years to develop counter-strategies.

Second, the US and other supportive countries in the UN must work together to oppose these trends as a coalition, to prevent the sharpening of opposition to NGO and civil society development and growth. The more these values are allowed to spread and the greater legitimacy they gain, the harder it will be to reverse this progression against the free existence and activity of NGOs. This might take the form of bringing more NGOs into observing roles at the UN, either through the Economic and Social Council, the ODIHR, or other bodies. This could also take the form of support to UN Special Rapporteur for Freedom of Expression and Assembly Maina Kiai, UN Special Rapporteur on the Protection and Promotion of Freedom of Opinion and Expression David Kaye, or UN Special Rapporteur on Human Rights Defenders Michel Forst, who can engage with specific nations regarding recommendations for including NGOs in a plan of growth and development of a well-functioning society.

Third, the US and pro-human rights states should recognize that the philosophy underlying these restrictions on civil society is itself in danger of spreading. It views human rights and freedom of speech as one side of an argument, and contends that there is an alternative – one that does not see human rights standards as the bedrock principles of society but as a political ideology based on “Western values” that need not apply universally. This philosophy has also been expressed by Russia as it interacts in the UN, attempting to pass family values resolutions aimed at curtailing LGBT and minority rights. Recognizing this threat to the universal application of human rights, the U.S. and pro-human rights countries should seek ways to increase the legitimacy of the body of human rights norms in the long run. The U.S. can do this by strengthening their application, in part by subjecting itself to application of these norms, and not setting an example of exceptionalism that can be followed by Russia and others. It could, for example, focus some

of its democracy development budget on partnerships that not only address development needs abroad, but also in the United States.⁶² It could also cite and rely on these normative rules, including international human rights norms, and rule of law norms, more in international and national discourse around everyday issues, to bring them into mainstream discussion regarding economic and political development, such as discussions of ways states can meet the Sustainable Development Goals identified by the UN in 2015. As part of this effort, the U.S. and human rights-promoting states could consider supporting more social science research into methods and messaging that will increase acceptance of human rights norms, strengthen the UN system, and create a greater role for civil society and NGOs within this system.

In addition, the US and other supportive UN countries should consider uniting in messaging and media work in support of a concept of human rights that is universal and foundational. Media and messaging coming from Russia and other regimes regarding the “political” basis of the human rights perspective has been coordinated and has garnered a great deal of attention. It threatens to destabilize the EU as well as undo the coordinated efforts of EU countries to respond to the current refugee crisis. Reminding countries, and their citizens, of the benefits they can gain from supporting a foundational concept of human rights might help them open up to recognizing these benefits more broadly. In particular, as age-old studies have shown, countries that generate large numbers of refugees can reverse this trend by increasing security, economic growth, and political stability. Civil society can help support all three of these, and the U.S. and other supportive countries should unite on this message and use it as the foundation for their communications regarding current events in Europe and in other places in the world.

If the U.S. and other nations in the UN allow this anti-civil society philosophy to take hold, we may see widespread damage to the human rights-based framework that has been the foundation of the UN community for more than 50 years. If we lose this common foundation and understanding of the acceptable treatment of NGOs and citizens, the repercussions could be a massive blow to global developments in human rights. Let us develop a response now to make sure this does not happen.

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