

Analysing threats to civil society around the world

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A review of CSI country data from 2003-2007*

Background

Since September 11, 2001, the United States and other governments have frequently asserted that threats to national peace and security warrant restricting civic rights and clamping down on civil society organisations (CSOs). For many repressive and even democratic regimes, the attacks of 9-11 have served to legitimise state abuse of civic rights in the name of national security, political stability and non-interference in a country's internal affairs (Sen and Morris, 2008). However, some regimes have consistently suppressed civic rights and freedoms regardless of their adherence to the 9-11 security agenda. South Korea is a case in point, whereby the government routinely misuses the National Security Law to detain people who oppose the established political view but who pose no security threat. In light of the current security agenda and the ongoing threats to civic rights, this article examines restrictions to civil society and CSOs around the world from the 2003-2007 Civil Society Index project findings of over 54 countries.

According to international covenants and principles (i.e. the International Covenant for Civil and Political Rights; the International Principles Protecting Civil Society), civic rights and freedoms are clearly defined to protect CSOs and civil society actors from repressive intrusions from the state. These principles include:

1. The right to entry (freedom of association);
2. The right to operate free from unwarranted state interference;
3. The right to free expression;
4. The right to communication and cooperation;
5. The right to seek and secure resources; and
6. The state's duty to protect civil society.

The state's adherence to these six principles is indispensable for advancing, consolidating and strengthening democracy (World Movement for Democracy/ICNL, 2008). A strong and vibrant civil society acts as an alternative to state provided service delivery of social welfare provisions, as well as a watchdog of the state, and other sectors (e.g. corporations), with the intention of protecting citizen rights, interests, and needs.

Looking at the CSI findings, several clear patterns emerge regarding possible and entrenched threats to civil society and CSO activities. These threats range from the subtle with complicated registration procedures, co-optation, and self-censorship due to fear of state persecution or loss of funding, to more coercive and abusive practices such as harassment and detention of civil society activists as well as arbitrary closure of CSOs.

Complicated registration process

Many states require CSOs to undergo formal registration or incorporation procedures in order to obtain legal entity status for them to operate. However, some states make this process so difficult that it effectively prevents CSOs from being registered and, thus, forcing them to operate illegally and face severe penalties if caught. In China, Egypt, Russia, and Uganda, there are separate laws and different registration procedures for different types of CSOs. In South Korea, most civic and advocacy organisations are

unincorporated and informally organised because the incorporation process so complex and requires excessive documentation. Unregistered CSOs in some countries face severe penalties while some 'illegal' CSOs often resort to giving kickbacks to state officials in order to stay open or go underground. CSOs in Russia, for example, face liquidation of their assets if they fail to re-register. Even where CSO registration are guaranteed by law to be straightforward, easy and timely, in practice, the level of corruption amongst state bureaucrats and arbitrary interpretation of the law can mean long delays and complications to the registration process, as illustrated in the CSI findings of Azerbaijan, Bolivia, and Ecuador.

Co-optation and the silencing of dissent

The CSI findings reveal that the widespread practice of connections and acquaintances in civil society through which the state and political actors control and influence civil society undermines the autonomy and credibility of CSOs. Co-optation is a serious threat CSOs' ability to act as a watchdog over state actions that violate civic rights and freedoms. Through government funding, connections, and political favours, many CSOs are often politically influenced and permitted only to perform a very limited and uniform role such as service delivery of the state's welfare provisions. Not surprisingly many CSOs become risk averse and refuse to voice dissent because of fears of state persecution and loss of financial support or political favouritism. In Slovenia, where there are no formal barriers to advocacy activities, many CS actors and CSOs often refuse to criticise the state because they are in fear of informal pressures or negative consequences from both the national and local authorities. In Cyprus, the lack of transparency for the public funding of CSOs creates fertile ground for the development of 'clientelistic' networks and silences CSOs dissent amongst those organisations that want to preserve their public funding. Under Communist China and Vietnam, CSOs are considered part of the state apparatus and thus have very little autonomy to question let alone oppose established political views.

Interference in operational and advocacy activities

Despite internationally accepted principles of civic freedoms, many states continue to place restrictions on CSO activities, constrain their work, and harass and intimidate civil society activists. In a number of CSI countries, such as China, Costa Rica, Bolivia, and Fiji, there are very restrictive laws curtailing civic rights and freedoms, allowing intrusive monitoring and interference of CSO activities by the state. In particular, CSOs engaged in advocacy work in the areas of human rights, environmental protection and workers' rights or trade unions are routinely targeted. In Uganda, many essential workers are barred from forming unions and strikes are only permitted after a lengthy reconciliation process. Human rights organisations in Egypt are constrained by misinterpretations of state laws to inhibit advocacy and activities relating to the monitoring of human rights violations.

In Russia, human rights and civil rights CSOs have been restricted from participating in defining social policy priorities and decision-making, and receiving foreign funding if it is perceived to be for 'political' means. In Turkey, human rights groups and activists continually face judicial harassments and detention while trade unions face specific barriers to organise and protest against the government. The South Korean government has consistently misuse the National Security Law to remove people who pose a threat to established political views, to prevent people from taking part in discussion surrounding relations with North Korea and to use as a form of control over civil society in times of social unrest. In Azerbaijan, government structures frequently create informal barriers and hindrances to civil society activities that many CSOs develop their own self-censorship

mechanisms and try to avoid criticising the state. In Nigeria, once a CSO is known for its critical stance of the government, it will be under strict control and regulation, and in some cases receive visits from the state security services for private meetings

Recommendations

These CSI country examples of state interference and attacks on civil society serve as warning signs for both civil society actors in the local and international communities to be more vigilant in protecting the rights of CS actors and activities of CSOs. A strong and vibrant civil society is essential to democracy and development and it is imperative that concerted actions be taken by actors within and outside of civil society to monitor and hold states accountable to regulations and covenants that protect civic rights and freedoms. Some of these actions include:

- Monitoring state actions to track and report violations of regulations which protect civic freedoms (act as a watchdog);
- Educating various government agencies about the civic landscape and CSOs to promote understanding and respect between the sectors;
- Facilitating close collaborations between CSOs and the state to set up an ombudsman-type function to oversee the complaints and mediate non-legal cases;
- Encouraging and facilitating dialogues between national, regional and international CSOs to develop legal frameworks for civil society work; and
- Using litigation in appropriate international courts to actively pursue transgressions against civil society and CS actors.

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* Note: CSI project reports of over 54 countries were reviewed for this paper with particular attention to indicators 2.5.1 ó CSO Registration, 2.5.2 ó Allowable Advocacy Activities, 2.5.3 Tax Laws Favourable to CSOs, and 2.6.1 ó CSO Autonomy.