

# FUNDING CIVIL SOCIETY

How adaptable  
international  
donors can support  
organisations  
under increasing  
restriction



HUMAN RIGHTS HOUSE  
FOUNDATION

# Table of contents

<b>Foreword</b>	3
<b>Methodology</b>	6
<b>Access to resources under threat</b>	8
<b>Principles</b>	16
Sustainability	18
Flexibility	20
Coordination	22
Independence	24

Human Rights House Foundation (HRRH) protects, empowers and supports human rights defenders and their organisations. To accomplish this, HRRH brings organisations together in Human Rights Houses, and unites the Houses in an international network. HRRH advocates with partner organisations to promote the freedoms of assembly, association, and expression, and the right to be a human rights defender – to ensure that individuals and organisations can work freely and openly to protect and advance human rights at home and abroad. Today, independent human rights organisations work together in 15 Human Rights Houses in 12 countries. The Houses are located in Eastern & Western Europe, the Caucasus and the Balkans. HRRH is based in Oslo, with an office in Geneva and representation in Brussels and Tbilisi.

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# Reimagining the role of donors



I am honoured that the Human Rights House Foundation has asked me to write the foreword for this important report. I am also thankful, because the time is long overdue for us to look critically at the role that donors play – inadvertently – in accelerating the trend of closing civic space.

It is important to emphasise at the outset that the purpose of this report is not to flog donors – whether governments, foundations, private individuals, non-governmental organisations (NGOs), or others. Their support has been indispensable in advancing human rights over the past generation, and will remain so far into the future.

The problem is that the old model for funding human rights and democracy initiatives is not working in the current environment. And we are all aware of just how dire that environment is: A recent CIVICUS report, for example, documented serious threats to civic freedoms in over 100 countries. A number of democracies have been tarnished by the election of extremist leaders who have little respect for human rights.

Meanwhile, violence, intimidation, arbitrary detention and murder remain a daily reality for activists in many corners of the globe. In a real sense, we are in a world where intolerant fundamentalisms—from market fundamentalism, nationalist fundamentalism, cultural and religious fundamentalism, and security fundamentalism—are reigning in a way not experienced in decades.

role in the human rights business model, even as civil society also recalibrates its approaches. The point of this report is to help them do this, so that we can fulfil our shared goal of advancing human rights.

I believe we need to start this process by looking at the reasons for the current system's rigidity: It derives initially from donors' (relatively recent) desire to easily evaluate their



Donors' support for human rights and civil society is badly needed... so is their willingness to think outside the box.

These new challenges need new approaches, from activists, civil society and governments dedicated to freedom and dignity.

At present, despite all of the money spent and all of the effort expended, we are always on the defensive. We are focusing almost exclusively on maintaining ground, when we should be fighting to regain it. In this context, the time is ripe for institutional donors to reassess their

contributions and to immediately quantify successes – basically by borrowing tools used to assess development and service-delivery NGOs. This has been formalised through log-frame based designs and “indicatorism,” whereby project success is defined by “achieving” an indicator (which often wrongly assumes causality between donor-funded activity-driven projects, and desired outcomes).

Meanwhile, the only indicator that really matters – the decline of democracy and respect for human rights – is painfully obvious for us all to see.

The rigidity also derives from a stated desire for “accountability,” which is certainly important. But do accountability requirements really accomplish what they set out to do? Are they making paper pushers of activists and NGOs?

NGOs are usually held to higher accountability standards than governments funded by the same donors. Why the distinction? And with so much project-based funding these days, it’s not uncommon for a single organisation to be audited multiple times – once for each project. This is a waste of time, money and effort. It is also a part of the reason that NGOs spend 80 per cent more to track their finances and employ nearly twice as many finance staff compared to multinational corporations.<sup>1</sup>

This prioritisation of short-term and quantifiable results and “accountability” has pushed human rights groups to devote energy to project activities and administrative work, at the expense of working on the bigger picture. For instance, an NGO will proclaim that speaking at the UN Human Rights Council for two minutes-to a half-empty chamber with few people listening-is an “indicator” of its impact internationally. Holding a number of workshops is taken to be an “indicator” of “increased awareness.”

These actions are not the building blocks of a movement. They are bureaucratic box-ticking exercises.

Unfortunately, this then feeds into a vicious cycle: When it comes time to apply for grant proposals, those who know the language of the donors and can twist their work to sound effective are favoured and get more money. Those who do not know the language are left behind, even if they are the ones who do the real work.

This current paradigm also creates competition between associations, as each strives to position themselves as the most successful, instead of joining forces to achieve lasting change. This is unfortunate, since the major human rights achievements of the past century were – without exception – the result of alliances between various actors, working from diverse angles and with different tools but all strongly united in the “struggle.” As long as we are competing, we are losing.

The common “Calls for Proposals” is symptomatic of the competition that NGOs and activists are forced into, without necessarily leading to more impact in advancing human rights, dignity and freedom.

Further, the current funding approach often blanks out support for social movements because they do not have the formal structures – including an army of accountants, lawyers, program managers and other staff – that many donors require to administer grants. Social movements typically emerge outside of the more

professionalised “human rights community,” but that is precisely the reason for their strength and importance.

They reflect the organic demands of ordinary people for recognition, equality, social justice, redress, and change. Yes, they can be messy, unpredictable and difficult to assess and evaluate. But historically, they are the ones that get things done. Donors need to find ways to better support them.

The current dominant approach by donors reflects a paucity of ambition. We need to change that. This report offers a fantastic starting point, with its general principles designed to make international donors stronger in their work.

As the report suggests, real change can only happen when donors realign their priorities towards supporting long-term struggles for social justice. Progress in achieving human rights cannot be captured in quarterly reports; sometimes it takes generations.

Moreover, when working in human rights and democracy, process is just as important as results and final impact. Process is about changing attitudes, increasing numbers at protests, empowering people to stand up. Results eventually flow from that, but it can take time. Take Martin Luther King, Jr., who started his activist work in 1955. His first “deliverable” was in 1965, with the passage of the Voting Rights Act. In between it was all process: marches,

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<sup>1</sup> Jeri Eckhart Queenan, “Global NGOs spend more on accounting than multinationals,” Harvard Business Review, 23 April 2013, available at <https://hbr.org/2013/04/the-efficiency-trap-of-global>

writing, time in jail, trainings and so on – but no one can say these ten years were not useful. So too with the Hissène Habré case: it took 17 years of dogged, relentless work to get the result of a jail term.

Donors must commit to a results framework that favours seizure of opportunities over indicators and deliverables. Reports, detailed spending timetables and easily evaluated project designs will have to be reframed. Social change, by its very nature, is driven by the people and their associations; they must retain control over the shape, aspirations and tactics. The chain of change cannot be cast in stone.

Donors' support for human rights and civil society is badly needed in all corners of the globe at the moment. But so is their willingness to think outside the box. Donors, just like us all, need to rethink tactics to get us out of this position. This report lays a solid foundation to start that process.



Maina Kiai, former United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, serving from 2011 until 2017.



# Methodology

Build principles for international donors through  
concrete experience of organisations within Human Rights Houses

Human Rights House Foundation (HRHF) believes that the best way to sustain the partnership of non-governmental organisations (NGOs) and international donors, in promoting human rights, for both to adapt their work methods to address the increasingly restrictive environment in which they work.

This report offers principles and recommendations for international donors to strengthen their support of human rights NGOs regarding their access to resources in such environments. These principles and recommendations aim to inspire donors to review their methods. The report also aims to empower human rights NGOs, providing a tool to strengthen partnership with international donors.

In the Balkans, Caucasus, and in Eastern Europe, the regions in which HRHF works, restrictions on foreign funding have been at the core of the measures taken by States to limit and silence NGOs, and especially those working on human rights issues over the years.

This report is, in part, based on the experiences of NGO members of

Human Rights Houses working in these regions.

These experiences allow HRHF to share the principles put forward in this report with the confidence that they accurately relate to the realities faced by partner human rights NGOs in various countries.

Furthermore, the report will serve HRHF in strengthening and adapting its own work methods when it is acting as a donor to human rights NGO members of the various Human Rights Houses, the Human Rights Houses themselves, and other partner NGOs. Although it is a relatively small donor, HRHF is indeed faced with the same difficulties and challenges as other international donors.

## Information and sources

HRHF is publishing this report based on its experience of years of close work with international donors, its experience of acting as a donor itself to Human Rights Houses, as well as the experience, additional research, specific information and examples provided by partner NGOs, and interviews.

Information contained in this report has additionally been collected from various Human Rights Houses and their partner and member NGOs:

- Qualitative free form questionnaires in English and Russian were sent to human rights NGO respondents and donors. This data gathering process aimed at giving both sides of the story and to not limit or lead the respondents in any particular direction;
- Interviews were also conducted with HRHF staff and human rights defenders from various Human Rights Houses, as well as with representatives of two donor organisations.

While this research for the report is based on qualitative research methods where respondents contributed with their subjective views, it is also based on objective reports including case law of the European Court of Human Rights and the United Nations Human Rights Committee. It also includes NGO and governmental reports as secondary sources.



Citations for all sources are provided unless doing so would endanger a source or their colleagues or families. In those instances, the notation “source on file” is provided. Information shared by partners is not referenced in the public version of this report.

### Limitations

Many of the examples are based on the experiences of Human Rights Houses and their partner and member NGOs, as well as HRHF’s own experience. While these are trusted, independent sources, the

research is limited to their perspective within human rights and should not be treated as generally applicable research to all human rights NGOs.

Furthermore, taking into account the severe crackdown on the right to foreign funding in many countries in which HRHF works, its geographic scope is limited to our countries and regions of operation. However, we believe that the information and experience that we have gathered over years in many European countries could be useful to organisations throughout the world.

As publisher of the report, HRHF takes full responsibility for its findings and has decided to limit references to donors or specific human rights NGOs, either to protect them from retaliation by authorities or protect good practices from being known by governments – donors we interviewed indeed have many good practices to continue operating in the more and more restrictive environments.

# A brief history of restrictions on NGO access to resources

**1976**  
**India**

**Indira Gandhi speaks out against the “foreign hand” influencing policies in India during a public rally in Calcutta**

**2009**  
**Ethiopia**

**Adoption of the Proclamation on Charities and Societies**

**2011**  
**Belarus**

**Belarus significantly strengthens legislation restricting NGO access to foreign funding**

**2012**  
**Russia**

**Government enacts  
federal law known  
as “The foreign  
agents law”**

**2014**  
**Azerbaijan**

**Changes in  
legislation renders  
foreign funding  
almost nonexistent**

**Almost 60  
countries  
adopted foreign  
funding restrictions  
between 2012-2014\***

\* According to research conducted by the International Center for Not-for-Profit Law.

# Access to resources under threat

Attacks on the universality and indivisibility of human rights are commonplace, and are also reflected at the international level. Alarming, leading political figures attack the legitimacy of domestic and international human rights mechanisms. Human rights defenders face threats, slander and stigmatisation which is occasionally perpetuated in legislation.

One main trend in this environment is the increasing difficulty of NGOs and human rights defenders individually to access foreign resources.<sup>2</sup>

Donors supporting human rights work, whether private or public, face this situation just as severely as human rights organisations. Their ability to fulfil their missions is similarly restricted. Many donors have therefore begun to adapt their work methods, and remain, as a result of their adaptability, able to support and strengthen human rights NGOs across the globe.

In the context of a global decline in freedoms, HRHF has identified

principles and recommendations, presented in the next section of this report, that could make cooperation between human rights organisations and donors stronger, empower the success of donors in the pursuit of their objectives, and contribute to defeat the multiplication of legislation and practices impeding the ability of NGOs to access international resources.

## Restrictions on resources: an early warning

Restricting access to foreign funding has proven to be an indicator of a government's willingness to further restrict the enjoyment of the right to freedom of association and to control the work of independent human rights NGOs.

Prime Minister Indira Gandhi thought the "foreign hand" influencing policies in her country needed to be limited. Her stand against "certain foreign powers," as expressed during her public rally in Calcutta on 3 March 1976, included in her view a need to control the ability of Indian civil society to access foreign

resources. Since then, NGOs in India have required government approval of foreign donations.

More recently, the Ethiopian parliament adopted the Proclamation on Charities and Societies<sup>3</sup> in 2009,<sup>4</sup> demonstrating the frightening speed at which a country can shut down its civil society by restricting access to funding.

After the adoption of the law better known as the Proclamation, no representatives of Ethiopian human rights NGOs were able to participate at the review of Ethiopia at the United Nations Human Rights Committee.<sup>5</sup>

Unregistered organisations in Belarus have been banned from receiving foreign funding. International funding must be registered with the Department for Humanitarian Activities at the Presidential Administration.

Therefore, unregistered NGOs are not allowed to seek such foreign grants.

The Presidential Administration thereby also has an absolute overview

<sup>2</sup> Douglas Rutzen, "Aid barriers and the rise of philanthropic protectionism," *International Journal of Not-for-Profit Law*, vol. 17, Nr 1, March 2015, available at <http://www.icnl.org/research/journal/vol17ss1/Rutzen.pdf>

<sup>3</sup> Proclamation on Charities and Societies, 6 January 2009, Nr 621/2009. Available at <http://www.refworld.org/docid/4ba7a0cb2.html>

<sup>4</sup> "HRHF protests against Ethiopian law," 30 January 2009, available at <http://humanrightshouse.org/Articles/9825.html>

<sup>5</sup> "No civil society submissions from within Ethiopia to the United Nations HR Committee's review," 12 July 2010, available at <http://humanrightshouse.org/Articles/14638.html>

of all foreign resources accessed by civil society, and hence control of foreign funded activities.

Since 2012, laws have been enacted with the aim to restrict the registration, activity, operation and funding of NGOs in many parts of the world.<sup>6</sup> This situation led to a decline in the number of organisations and a decrease in or readjustment of the activities of existing ones, or in worst cases, to the closing down of some organisations. This is the result of undue restrictions occurring when an organisation seeks, secures or uses foreign financial resources. Crackdowns on human rights NGOs and restrictions on foreign support are increasing around the world. Governments imposing harsh constraints on human rights NGOs and criminalising opposition, as suspicion of Western-funded organisations grow.<sup>7</sup>

In July 2012, the Russian Federation enacted the federal law known as the foreign agents law.<sup>8</sup> This law requires all non-commercial organisations to register as “foreign agents” before receiving funding from any international sources if they intend to conduct political activities. The cynicism of the measure is to be highlighted: It does not ban or restrict the access to international grants; it requires that NGOs receiving such grants are to declare they work for a foreign power. Such foreign funded NGOs also need to inform the Ministry of Justice about any foreign transaction greater than 200,000

Roubles (less than 3,000 €). The legislation stigmatises human rights defenders, those branded as “foreign agents” are ostracised in society, and thereby constitutes a de facto ban on foreign funding for those groups not wishing be classified in this manner. As such, it effectively criminalises human rights work, given the heavy criminal penalty foreseen in the law (up to four years imprisonment and/or fines of up to 300,000 Roubles, approximately 4,400 €).

Restrictive laws are systematically adopted in a climate of stigmatisation of human rights defenders and their NGOs, and succeeded by further measures restricting civil society activity, such as heavily intruding bureaucratic control of the functioning of associations and foundations, highly obstructive financial reporting schemes to the authorities (not to the donors), measures limiting the ability of human rights defenders to engage in the public debate and even “undesirable organisations” legislation such as in Russia.<sup>9</sup>

With such restrictions, authorities aim at favouring NGOs supportive of the government’s policies or those known as GONGOs (governmental organised non-governmental organisations) and aim at replacing independent human rights NGOs with groups indebted to those in power.

Limitations put on the right to exercise core freedoms aim at suppressing those who are critical of the authorities, at silencing those who request changes in public policies which violate human rights obligations, and at stopping those who report on human rights violations. It is hence not surprising that legislation on foreign funding often distinguishes between “political activities” and other activities; the aim is to limit the activities of human rights advocacy, election monitoring or anticorruption work.

Restrictions on access to resources are hence the backbone to this global decline in freedoms.

<sup>6</sup> “Challenging the Closing Space for Civil Society, A practical starting point for funder,” Funders’ Initiative for Civil Society, May 2016, p. 8, available at [http://www.ariadne-network.eu/wp-content/uploads/2015/03/ClosingSpaceReport\\_May2016\\_DigitalVersion.pdf](http://www.ariadne-network.eu/wp-content/uploads/2015/03/ClosingSpaceReport_May2016_DigitalVersion.pdf)

<sup>7</sup> Thomas Carothers and Saskia Brechenmacher, “Closing Space: Democracy and Human Rights Support Under Fire,” Carnegie Endowment for International Peace, 2014. Available at [http://carnegieendowment.org/files/closing\\_space.pdf](http://carnegieendowment.org/files/closing_space.pdf)

<sup>8</sup> Law “On Amendments to Certain Legislative Acts of the Russian Federation Regarding the Regulation of Activities of Non-commercial Organisations Performing the Function of Foreign Agents,” 20 July 2012, Nr 121-FZ. Unofficial translation by the International Center for Not-for-Profit Law available at <http://www.citwatch.org/upload/wysiwyg/files/ICNL%20Unofficial%20Translation%20Russian%20Enacted%20Law.pdf>

<sup>9</sup> HRHF, ““Undesirable” critics criminalised in Russia,” 22 May 2015, available at <http://humanrightshouse.org/Articles/20958.html>



## An international answer is needed

At the same time, the UN Human Rights Committee following its review of Ethiopia in 2011 considered the legislation to be an excessive limitation to the right to freedom of association, underlining Ethiopia “should reconsider the funding restrictions on local NGOs in the light of the Covenant [on civil and political rights] and it should authorise all NGOs to work in the field of human rights.”<sup>10</sup> Thereby, the Committee clearly asserted that the right to freedom of association incorporates the right of civil society to access resources. The Human Rights Committee had previously, in a communication related to Belarus, stated that “the right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 [ICCPR] extends to all activities of an association.”<sup>11</sup>

In other words, “the right to freedom of association not only includes the ability of individuals or legal entities to form and join an association but also to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources.”<sup>12</sup> The Declaration on Human Rights Defenders of 1998 states that all individuals, groups and organs of society have the right and the responsibility to promote and

<sup>10</sup> United Nations Human Rights Committee, Concluding observations following the review of Ethiopia, 19 August 2011, para. 25 (UN Doc: CCPR/C/ETH/CO/1).

Available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ETH/CO/1&Lang=En](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/ETH/CO/1&Lang=En)

<sup>11</sup> United Nations Human Rights Committee, communication Nr 1274/2004, Korneenko et al. v. Belarus, 31 October 2006, para. 7.2 (UN Doc: CCPR/C/88/D/1274/2004).

Available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F88%2FD%2F1274%2F2004&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2F88%2FD%2F1274%2F2004&Lang=en)

<sup>12</sup> United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai, Report to the Human Rights Council, 24 April 2013, para. 8 (UN Doc: A/HRC/23/39).

Available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/23/39](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/39)

protect universally recognised human rights and fundamental freedoms.<sup>13</sup> Article 13 of the Declaration explicitly recognises the right to access foreign funding as a “self-substantive right”<sup>14</sup>:

“Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.”

International and European bodies have developed standards affirming that the right to access foreign resources derives from the right to freedom of association and is an integral part of it.<sup>15</sup>

In addition to the principles put forth by the former United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, international standards on foreign funding indeed remain quite weak. The Human Rights Council resolution on human rights defenders of March 2013 does set forth a general principle of non-discrimination:

“The Human Rights Council calls upon States i) to ensure that reporting requirements placed on individuals, groups and organs of society do not inhibit functional autonomy, and furthermore ii) to ensure that they do not discriminatorily impose



Azerbaijani human rights defender, Rasul Jafarov (R) pictured with HRHF director Maria Dahle in 2013 in Baku during presidential election.

restrictions on potential sources of funding aimed at supporting the work of human rights defenders in accordance with the Declaration referred to in paragraph 3 above, other than those ordinarily laid down for any other activity unrelated to human rights within the country to ensure transparency and accountability, and that no law should criminalize or delegitimize activities in defence of human rights on account of the origin of funding thereto.”<sup>16</sup>

The European Court of Human Rights (ECtHR) has not yet ruled on the specific issue of the right to access foreign resources but a case is nonetheless pending before the ECtHR concerning the Azerbaijani authorities’ refusal to register an applicant’s NGO.<sup>17</sup> The ECtHR would take an important step forward by assessing the case of Rasul Jafarov (pictured above)

in relation to the restrictions on the access to foreign funding imposed by the Azerbaijani government. This would be the first formal, legal and binding recognition that restrictions to access foreign resources violate human rights norms. A judgement in favour of a violation of article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms and a formal condemnation of State party to the Convention would constitute an important step forward in affirming the right to access resources for NGOs.

Restrictions to access foreign resources is hence a part of the global decline in freedoms, and even a strategy now pursued by many governments. A response from the international community must come with strong standard setting in this regard.

13 Article 1, Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, United Nations General Assembly resolution 53/144, 9 December 1998 (UN Doc: A/RES/53/144). Available at <http://www.ohchr.org/Documents/Issues/Defenders/Declaration/declaration.pdf>

14 World Movement for Democracy, Report Defending Civil Society, June 2012, p. 48. Available at [http://www.icnl.org/research/resources/dcs/DCS\\_Report\\_Second\\_Edition\\_English.pdf](http://www.icnl.org/research/resources/dcs/DCS_Report_Second_Edition_English.pdf)

15 See for example: Report of the special rapporteur on the rights to freedom of peaceful assembly and of association A/HRC/23/39, Resolution of Human Rights Council on human rights defenders A/HRC/RES/22/6, Council of Europe Venice Commission Opinions on the law of NGOs of the Republic of Azerbaijan Opinion 787/2014

a) [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/23/39](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/39)

b) [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/22/L.13](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/22/L.13)

c) <https://rm.coe.int/1680306ff8>

16 United Nations Human Rights Council resolution 22/6, 12 April 2013, paragraph 9 (UN Doc: A/HRC/RES/22/6). Available at <https://rm.coe.int/1680306ff8>

17 Jafarov and others v Azerbaijan (No. 27309/14): [https://hudoc.echr.coe.int/eng#{"itemid":\["001-158610"\]}](https://hudoc.echr.coe.int/eng#{)



Donors should pay due attention to the local political, social and economic context in which associations operate, particularly associations working with grassroots communities, marginalized and vulnerable peoples, and on ‘unpopular’ or cutting-edge issues.

Donors should also respect the autonomy of civil society organizations so that associations can address the needs and concerns of the population.<sup>18</sup>

– Maina Kiai

### **International donors must be adaptable**

International donors are indeed able to play a major role in the evolution of the process of funding and its simplification.

The behaviour of international donors needs to move from a static and constraining granting method to a more flexible and supportive one. Restrictions on the access to foreign funding are being countered thanks to international donors already modifying their granting methods and adapting them to the increased need of flexibility of human rights NGOs working in increasingly restrictive national environments

Over time, human rights NGOs in repressive countries have learned and adapted to the new regulations.

Oppressive governments taking inspiration from the restrictive and stigmatising laws and practices laid down by Belarus, Azerbaijan, Ethiopia, and Russia should also consider that restricting access to foreign resources will not silence critical voices, instead it will push human rights NGOs to adapt, to work underground and in exile to ensure they can continue their human rights work and to hold those in power accountable.

Not only are independent NGOs facing limitations on their access to foreign funding by their own governments, they are also confronted with restrictions imposed by international donors themselves.

<sup>18</sup> United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai, *Ibid.*, para. 14.

Such restrictions are reflected through selective criteria set up by the donors themselves, such as but not limited to:

- Mandatory registration of NGOs;
- Excessive “minimum amount of fund allocated” (which prevents small local NGOs from accessing funding);
- NGO obligation to conduct a high percentage of activity within the territory of NGO establishment.

International funding is essential for organisations operating on sensitive and complex issues, such as human rights advocacy, election monitoring or anticorruption work, for which domestic funding is rare and insufficient.

Unduly restrictive measures can also lead donors to withdraw support from independent NGOs operating in those increasingly difficult environments. Some of those donors are targets themselves. On 28 November 2015, the Prosecutor General of the Russian Federation banned the activities of the Open Society Foundations in the country,<sup>19</sup> saying the organisation is a “a threat to the foundations of the constitutional system of the Russian Federation and the security of the state.”<sup>20</sup> The Charles Stewart Mott Foundation was similarly banned.<sup>21</sup>

As the environment for accessing international grants is growing more restrictive, international donors are becoming more flexible, and many

donors are already adapting their methods to evolving situations, allowing them to ensure their own ability to pursue their purposes. The principles and recommendations laid out in the next section of this report are based partially on real-world examples of adaptability employed by donors, such as Sigrid Rausing Trust, the Fund for Global Human Rights, the Norwegian Human Rights Fund, amongst many others, including also governmental donors. Hopefully these examples will provide timely support to like-minded donors in setting their new strategies.

Despite foreign resources being an essential vehicle for human rights NGOs, the process of accessing foreign resources can constitute a heavy administrative burden for human rights NGOs. Through excessively demanding criteria, burdensome bureaucratic applications, lengthy procedures and lack of flexibility and empathetic approach towards rapidly changing situations on the ground, international donors themselves render the access to foreign funding more complicated.

NGOs and international donors share the common goal of improving the human rights situations of a country, including strengthening civil society. International donors face challenges in navigating and understanding the complex world of human rights NGOs and in balancing respect for their independence with the conditions they attach to funding.

In order to gain efficiency and effectiveness in the cooperation

between donors and human rights NGOs, the administrative costs linked to complex funding requirements need to be reduced and collaborations found. NGOs often have problems with donors’ conditionality and inflexibility as well as lack of opportunities for meaningful dialogue.

In this context, adapting work methods in countries restricting grants to NGOs is just as essential as strengthening the international standards in regard to the right to access resources. In contexts in which key aspects of the autonomy of human rights NGOs, their independence, and the security of human rights defenders are threatened, donors can, in addition to providing financial support, strengthen and empower the NGOs they are funding, and increase the impact of the human rights work they fund, thereby better implementing their own objectives.

19 Formally, the Open Society Foundations and the Open Society Institute Assistance Foundation were put on a “stop list,” in application of the “Undesirable organisations” legislation. Available at <https://www.rferl.org/a/russian-council-adds-foreign-ngos-to-unpatriotic-list/27116392.html>

20 Jennifer Alban, “Russia bans George Soros foundation as state security ‘threat,’” Reuters, 30 November 2015.

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21 Charles Stewart Mott Foundation, “Statement on Foundation’s grantmaking in Russia,” 24 July 2015.

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# Principles to strengthen NGO access to foreign resources

In the following section, we have developed four principles on how international donors can adapt their methods to more successfully support civil society under increasing restriction.

Each principle comes with several recommendations for international donors, which can help to strengthen NGO access to foreign resources based on concrete experience of organisations within Human Rights Houses. They can also help to increase the impact of human rights work in the countries.



## Sustainability

Support as investment rather than granting



## Flexibility

Matching grants with local needs



## Coordination

Collaboration instead  
of competition



## Independence

Prioritise grantee  
independence and security

# Sustainability

## Support as investment rather than granting

Progress in achieving human rights cannot be captured in quarterly reports; it can take generations. Human rights success is not necessarily the product of a project; much more often it is the achievement of a generation. Not all human rights work can be planned within strict and limited projects; it can depend on opportunities.

For human rights NGOs to be effective, they need to be able to predict their resources on a long-term basis. When an NGO receives a grant to fund a project, international donors should keep in mind that its implementation will take time, energy and efforts to be achieved. Even after the project has been implemented, the NGO is still in need of resources and support as its work is not over.

Donors should encourage NGOs working on long-term plans, and reward those doing so, in order for their actions to be effective, well implemented and have a positive impact on the ground. This can come through an openness to support long-term struggles for social justice and human rights progress.

## Flexible and adaptable reporting methods

There is a legitimate need for human rights NGOs to better document their impact. However, excessive requests to work strictly in accordance with log-frames and indicators risk inhibiting the adaptability of civil society, leading to a negative long-term impact. This practice could propel NGOs towards ticking boxes, rewarding the demonstration of links between activities and expected outcomes, rather than towards seizing opportunities in the long-term. It also limits the possibility of international donors to support social movements.

Donors' requirements should help to bring change, to improve routines and strengthen the work of organisations and internal control procedures.

Log-frames and results framework are tools to empower NGOs and to help bring true change; it is important they do not become undesirable obstacles. Furthermore, qualitative reporting is just as important as quantitative indicators, especially in regard to human rights work.

### More institutional and core grants

Institutional grants allow NGOs to have long-term impact, to adapt to changing situations, and ensure that NGOs are not impeded in evolving situations by activities foreseen in project grants. Institutional grants improve the autonomy of NGOs, and the flexibility and adaptability of their work. Such support has a key effect on access to other resources, on capacities, and on impact on the work of human rights NGOs and human rights defenders.

### Stay when the situation becomes difficult

Some international donors reduce the scope of their activities or even withdraw from sensitive countries, where they feel the political environment does not allow them to be successful anymore. Unfortunately, those are the countries where they are needed the most.

Organisations that depend the most on foreign funding are based in countries where the human rights situation is the most critical and human rights violations are widespread and recurring. The HRHF partners interviewed noted that international donors have progressively reduced their support to human rights NGOs, in particular in Azerbaijan, Belarus and the Russian Federation.

### Support civil society in all forms

Some international donors organise NGOs within national legislative requirements, some do not; some work through individual and private bank accounts, some would never; some register organisations in exile, some remain at home.

Donors should value the diversity of actors with such a variety of approaches, the combination of which can lead to human rights progress. Furthermore, current funding approaches blank out support for social movements, emerging from protests or the result of a group of individuals addressing specific issues without necessarily organising as an association.

The approach of the European Endowment for Democracy, for example, is demand-driven: it supports the “unsupported organisations,” including groups that do not have formal registration.

### More multi-year and renewable grants

Grants covering a long period (ideally, multiple years) are important as they give the opportunity for greater financial stability of human rights NGOs, thereby offering them predictability. That predictability can also inspire trust for other new donors. Additionally, allowing the ability to set broader objectives

could help organisations to cope with and react to potential changes. Such grants must ensure sufficient time for NGOs to prepare and submit applications.

The European Union has been supporting more and more long-term actions with an average length of 29 months and with an average funding of around 383,000 Euros.

### Political support to grantees

As grantees face threats or retaliation due to their work, international donors should voice their support. Indeed, threats to grantees is a threat to the ability to implement the grant and thus a hazard to the donor. Often, international donors have political connections in the countries in which they fund projects and have unique access to national authorities. Donors have the potential to utilise that access in order to initiate frank interaction with national authorities on the broader aim of their work, challenging those authorities on the nature of the human rights situation.

The Urgent Action Fund for Women's Human Rights is offering visibility and public support to their grantees, especially by sharing the stories of their grantees as successful signs of courage.

# Flexibility

## Matching grants with local needs

In application of the principles of the universality and indivisibility of human rights, international standards are essential. Progress in achieving human rights must however be based on the needs in the country in which the grant is implemented.

Human rights NGOs and human rights defenders working in the field are best suited to provide information on the funding needs in each country. International donors can count on that expertise to build their local funding programmes.

Such assessments change, and opportunities can arise in an unexpected way. Reacting to such changes through funding is essential for long-term impact.

## Involve NGOs when designing grant schemes

International donors should include human rights organisations in designing their grant scheme, through consultation and feedback on previous grants or granting periods. Another way to be more informed about new political and social challenges in a country is to conduct situation assessments with NGOs before drafting grant schemes.

The European Economic Area granting schemes deploy independent experts who conduct public consultations to evaluate the country-specific needs. Similarly, the Open Society Foundations have country-specific advisors who visit the country and interact with NGOs.

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## Adapt grants in exceptional circumstances

Donors should be flexible to adapt to needs in the country at each stage of the support, even after the fund has been granted. When NGOs are working in difficult environments, where the legal framework or the political and social contexts can change quickly, re-designing the grant in urgent and challenging times is essential. Re-designing grants is a means to ensure the grantee pursues true impact, rather than the implementation of planned activities. Allowing to redesign a grant is hence a way to pursue the set objectives by adapting projects to changes in the environment in which the grantee is working.

### **Allow re-allocation of funds**

Re-allocation of funds gives NGOs the possibility to modify the budget to fund other interrelated activities arising from the detected needs. Strict rules not allowing change go against efforts of human rights defenders aiming to use the resources cost-effectively and to have true impact rather than spending planned money on planned activities only. This would also enable smaller NGOs to fund several related projects, thanks to one grant and therefore one application grant.

Some donors allow re-allocation of funds and foresee in their granting rules the procedure for such a reallocation. For example, the Norwegian Ministry of Foreign Affairs allows changes within 10% of some grant schemes, without the pre-approval of the donor.

### **Appropriate timeframes for application and reporting**

Application and reporting processes can be lengthy and tedious for human rights NGOs and human rights defenders. Long procedures can become a burden for an organisation. Moreover, the situation in the country may have changed, the intended project is likely to have changed or it becomes impossible to implement it.

### **Use relevant local languages**

Grant documentation should be published in various languages, and ideally in the relevant language(s) of the country in which the grant is to be implemented. Using national languages assists in ensuring transparency, as it makes the grant more accessible. Furthermore, using other languages than those in which the international donor works, and certainly other than French or English, removes barriers to applicants in regions where those languages are not common. Those applicants could be the ones most closely connected to national realities and needs.

At least, donors should accept grants in a secondary language, making it easier for applicants; typically, Russian is useful in many Eastern European countries.

### **Avoid excessive territorial requirements**

In certain situations, an organisation is not able to physically work from a country but has to work from abroad, operating in exile. Organisations working on sensitive issues are prohibited from working in a specific country. By imposing territorial restrictions on the implementation of the grant, donors can put themselves in a situation in which they no longer support vital human rights work, and instead end up funding superficial work, or even work influenced by the authorities.

Many donors, including the National Endowment for Democracy and the European Endowment for Democracy, have decided to fund human rights NGOs working on Azerbaijan from outside of Azerbaijan, including from Georgia, given the increasingly worrying situation.

# Coordination

## Collaboration instead of competition

International donors partner with human rights NGOs to counter the global decline in freedoms.

Coordination is essential to ensure various types of human rights NGOs and human rights defenders individually can apply.

In order to facilitate the funding process and empower human rights NGOs, better coordination between donors is essential. A well-coordinated plan of action can avoid that small NGOs never receive any grants.

## Standardise applications and reporting

There is a need for homogeneous and harmonised proposals, applications, requirements and reporting formats to be similar. Most human rights NGOs run several projects at the same time, from various donors. Those donors all have different types of reporting requirements and formats.

Furthermore, reporting requirements are not adapted to the size of the grant and the amount of accepted administrative resources in the grant, thereby putting a heavy administrative weight on smaller NGOs receiving the smaller grants, than on those with the larger grants including administrative resources.

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## Support and encourage NGO coalitions

True impact rarely comes from the work of one NGO or individual. NGO partnership with other groups, and especially non-human rights groups, is key for success. Coalition work, building on the specificity of each NGO, is a path towards success and impact.

Without interference in the partnerships, or imposing specific partners, international donors have a key role to play in encouraging cooperation amongst human rights NGOs and with other stakeholders. Such is possible for example by allowing coalitions to apply to grants and indeed recognising the added-value of applications submitted by sustainable coalitions.

## Increase donor to donor cooperation

Strong communication and sharing of information and understanding of contexts between donors mutually strengthens effectiveness. Donors have many cooperation platforms, especially private donors. Active and effective coordination between donors is even more important in the case of urgent interventions in countries where the human rights situation can change rapidly or where funds are needed to provide protection to human rights defenders at risk. Such coordination also allows donors to develop exit strategies when leaving a country, a region or a thematic field.

The Human Rights Funders Network was founded in 1994 by human rights donors who wanted to share their strategies and what they were learning, discuss field-wide trends, and collaborate. It has since become a global network of approximately 1,500 individual grantmakers and philanthropists, bringing such donors closer and sharing best practices amongst the network members.

## Provide more feedback to applicants grantees

All partners interviewed noted the lack of feedback from international donors when an applicant is not selected for a grant. They also expressed the lack of substantial feedback upon reporting on the grant's implementation.

Most international donors remain vague on the grounds of refusal of applications. In order to improve their applications and have a better chance to be selected next time, applicants need to have a better understanding of the rejection of their application. They also need to have an assessment of their successes when a project was implemented. Such feedback can also be used with other donors.

The European Union gives feedback to every application, even providing the possibility for follow-up questions if needed.

## Support independent local funding

The establishment of domestic funding mechanisms is essential in ensuring that human rights NGOs and human rights defenders individually are not solely reliant on international grants.

Ideally, such mechanisms are created by donors and human rights defenders, or at least in close cooperation with domestic NGOs. When international donors establish such domestic funding

mechanisms, the independence from the national political bodies and parties must be an essential condition.

In Croatia, Solidarna was set up in 2015 as a strategic initiative of 55 Croatian human rights defenders and civil society organisations. In 2016, Solidarna's start-up phase was supported by the European Economic Area (EEA) Grant for a project "Philanthropy for Human Rights."

Such mechanisms should not be used to channel funding to organisations with the sole aim at supporting the government's policies or even established by the government or its allies.

In Poland, the current government aims at establishing a national centre under the Prime Minister, channeling the EEA funding of civil society, in replacement of the Stefan Batory Foundation, which is today acting as an independent mechanism. The consequence would be a government-controlled funding channel of EEA grants, which threatens funding of independent civil society under Poland's current government.

# Independence

## Prioritise grantee independence and security

A stronger partnership between international donors and human rights NGOs could play a key role in countering the global decline in freedoms. Such a partnership should be built on mutual trust and respect of each other's roles. Donors can play a tremendous role in ensuring that their grantees remain independent from them, from other donors, and from governments.

Security must be a priority in the close cooperation between human rights NGOs and international donors.

## Prioritise security over transparency

Donors need to be aware that in some sensitive cases they need to stay discrete on the identity of the recipient of the grant or its activities. Civil society organisations that seek international funds do so because they are unable to access domestic funds, their activities being criminalised, or because domestic funding is non-existent. Some are also unwilling to accept domestic governmental funding, believing that it would compromise their independence. In this context, the identity of the recipient of the grant, its work and activities, and its location would need to stay undisclosed.

The Bureau of Democracy, Human Rights, and Labor of the United States Department of State does not give any information on the recipient of the grant in order to ensure confidentiality and security of their grantees.

## Prioritise grantee independence

Civil society is strong because it is independent, including from both governmental authorities and also from donors. NGOs are essential critical voices in holding the authorities to account for their commitments and international obligations.

There is an obvious link between the political cooperation of a country and the beneficiary of its grants. An organisation will be more likely to apply for a grant of a donor with which it has a good relation in terms of cooperation and political agenda. Partnerships between donors and grantees can be successful, as long as the grantee remains independent and is able to independently set strategies and implement the grant.

## Fund only independent organisations

In countries that restrict access to foreign funding, international donors should refrain from funding any organisation affiliated with the government, or established by members of the parliament or the government (governmental organised NGOs, known as GONGOs). The independence of civil society is crucial for the effectiveness and credibility of their action.

Critical and dissenting voices are essential in countries where governmental authorities are trying to silence opposition. International donors, by assessing the political, legal, and social context of a country, should privilege funding for independent organisations.

Some governmental donors have expressed that in order to be able to continue funding civil society in a certain country, typically in Azerbaijan, they also fund GONGOs. They are thereby helping the government to replace independent civil society, even if their strategic objective is to continue to fund independent civil society.

## Use secure communication

In many countries, NGOs are targeted and obstructed from doing their work by national authorities. Communications, movements and activities are closely scrutinised.

Donors should be well-versed in secure methods of communication, or at least follow the communication means of the grantee – for vulnerable and targeted NGOs when they apply for a grant but also when they will be reporting on the implementation of the project. Secure methods of communication include using messaging platforms and emails that utilise end-to-end encryption, accepting scanned documents instead of originals, renouncing full disclosure of information etc.

If the organisation is not able to fund secure means communication by its own, donors need to take this into consideration and fund the NGO with the possibility of using secure means of communication.

Front Line Defenders has championed security in their communication with grantees for emergency grants and issued guides for civil society to follow to ensure information technology security.

# Human Rights Houses

This report was based on the concrete experience of organisations within Human Rights Houses.

Today, independent human rights organisations work together in 15 Human Rights Houses.





# Principles to strengthen NGO access to foreign resources

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Human Rights House Foundation (HRHF) protects, empowers and supports human rights defenders and their organisations. To accomplish this, HRHF brings organisations together in Human Rights Houses, and unites the Houses in an international network. HRHF advocates with partner organisations to promote the freedoms of assembly, association, and expression, and the right to be a human rights defender – to ensure that individuals and organisations can work freely and openly to protect and advance human rights at home and abroad. Today, independent human rights organisations work together in 15 Human Rights Houses in 12 countries. The Houses are located in Eastern & Western Europe, the Caucasus and the Balkans. HRHF is based in Oslo, with an office in Geneva and representation in Brussels and Tbilisi.

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