

# **RUSSIAN NGOs IN TIME OF STRAINED FOREIGN RELATIONS**

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## Abstract

Russian NGOs have been subjected to a number of government measures designed to exert control over their activities, including the 2006 NGO and the 2012 Foreign Agents Laws. This paper provides an overview of the Russian civil society and its relationship with the state. It then details the ways in which the laws have limited NGOs' ability to carry out their activities. By picking out government concern regarding overseas financing of NGOs as the main driver for the strict regulation of the sector, this paper argues that Russian foreign policy towards the West and vice versa plays an instrumental part in the way that civil society is managed and allowed to develop in Russia. By viewing Russian domestic regulation in the context of and as a manifestation of wider international relations, this paper recommends the normalization of the relations as an essential step towards the development of stronger civil society in Russia.

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# Introduction

NGOs in Russia have gone through a seesaw ride since the collapse of the Soviet Union. In the 1990s, liberalizing policies under Yeltsin resulted in a period of rapid and unsustainable growth within an inconsistent and uncertain regulatory framework.<sup>1</sup> Under Putin's leadership in the second term, laws governing civil society have been tightened (commonly referred to as the "2006 NGO Law"), adding a burden of administrative hassle to NGOs and significant state oversight of their activities.<sup>2</sup> In came Medvedev, who realized within a period of a year that the burden was unreasonable for some of the smaller NGOs and relaxed the law implemented by his predecessor.<sup>3</sup> Finally, on return to presidential power for the third time in 2012, Putin has introduced the controversial *Foreign Agents Law*, which requires the registration of NGOs that receive financing from abroad as "Foreign Agents".<sup>4</sup> This caused an uproar both internally and in the international community, with many linking this move to yet another display of oppression and totalitarianism.

Being impartial, unaffiliated with the state is in theory one of the special strengths of NGOs. In the ideal case, they are mostly relieved from the weight of internal bureaucratic processes and conformity that governmental, commercial and some noncommercial organizations have to hurdle through. They can thus choose to devote maximum effort to causes they believe

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<sup>1</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, "Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law," *Europe-Asia Studies* 66, no.8 (October 2014): 1253, accessed May 1, 2016, <http://dx.doi.org/10.1080/09668136.2014.941697>

<sup>2</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS NO.287* (2008):7, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>3</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, "Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law," *Europe-Asia Studies* 66, no.8 (October 2014): 1254, accessed May 1, 2016

<sup>4</sup> Chip Pitts and Anastasia Ovsyannikova, "Russia's New Treason Statute, Anti-NGOS and Other Repressive Laws: "Sovereign Democracy" or Renewed Autocracy?" *Houston Journal of International Law* 37:1 (2014): 120, accessed May 4, 2016, <http://www.hjil.org/articles/hjil-37-1-pitts-ovsyannikova.pdf>

matter most, whether humanitarian, environmental, advocacy of rights, or any other.<sup>5</sup> Independence allows them to look at events objectively from a neutral standpoint, free from influence. They can be the voice of the under-represented; their agility and boldness enough to knock slow-reacting governmental mechanisms off their conceived path towards a better, more considered future. But in Russia, the reality is far from this concept. Through the employment of excessive bureaucratic control over most societal functions, the state manages to diminish key fortes of NGOs and thus “insulate itself from excessive innovation and spontaneity from society.”<sup>6</sup> The hybrid nature of government has resulted in policies that support some aspects of civil society, while filtering out the ones deemed unwanted.

In parallel, the Russian relationship with the West is not going smoothly. Shedding light on the current international relations climate brings to vision problems that are potentially hurting the image of Russia-based NGOs cooperating with foreign actors, before the domestic audience. There are deepening disagreements between Russia on one side, and the EU with the United States on the other arising from differences in a number of key matters, including Ukraine, Crimea and Syria amongst others.<sup>7</sup> By having in iron grip on the media, the Russian state is able to rally public support for its actions at home or abroad, through staging effective

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<sup>5</sup>Lynn Lawry, edited, *Guide to Nongovernmental Organizations for the Military* (US Department of Defense, 2009), 30, <https://fas.org/irp/doddir/dod/ngo-guide.pdf>

<sup>6</sup> Geir Flikke, “Resurgent authoritarianism: the case of Russia’s new NGO legislation,” *Post-Soviet Affairs* 32:2 (2016): 105, accessed May 1, 2016, <http://www.tandfonline.com/doi/pdf/10.1080/1060586X.2015.1034981>

<sup>7</sup> Maria Lipman, “How Russia has come to loathe the West,” *European Council on Foreign Relations*, March 13, 2015, accessed May 22, 2016, [http://www.ecfr.eu/article/commentary\\_how\\_russia\\_has\\_come\\_to\\_loathe\\_the\\_west311346](http://www.ecfr.eu/article/commentary_how_russia_has_come_to_loathe_the_west311346)

information campaigns.<sup>8</sup> Thus, the Ukrainian crisis was very quickly followed by the anti-Western sentiment in Russia. According to a recent NORC Public Affairs Research, more than twice as many Russians have an unfavorable opinion of the United States in 2014 in comparison to 2012 (65% vs. 25%); and nearly half of Russians have an unfavorable view of the European Union in 2014, in contrast to only 11% in 2012.<sup>9</sup> Western media has also been accused for spreading much of the anti-Russia sentiment, whether through not referring to facts or being selective with its coverage of the news,<sup>10</sup> and thus overall contributing to a chilly relationship. Since much of the civil society regulation imposed by the Russian state has stemmed from the desire to de-link foreign actors from political organizations and put an end to their alleged meddling in Russian internal affairs,<sup>11</sup> it becomes impossible to carry out an analysis into this field in isolation from the foreign policy dimension.

This paper sets the scene by exploring the statist approach that Russia follows, and how that has influenced its civil society and the public. Within this setting, an overview is provided of the legislation implemented in the last decade, considering its consequences and the ways in which it forced NGOs to adapt in order to suit the autocratic tendencies of the Russian state, whilst remaining fit for the demands of the public it serves. In the research, the government concern over association with foreign actors is treated as the main driver for stricter NGO law,

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<sup>8</sup> Jill Dougherty, "How the Media Became One of the Putin's Most Powerful Weapons," *The Atlantic*, April 21, 2015, accessed May 22, 2016, <http://www.theatlantic.com/international/archive/2015/04/how-the-media-became-putins-most-powerful-weapon/391062/>

<sup>9</sup> Jennifer Benz, David Sterrett, Trevor Thompson, Nicole Willcoxon, Daniel Malato and Emily Alvarez, "Public Opinion in Russia: Russias' Attitudes on Foreign Affairs and Social Issues," *NORC at the University of Chicago*, 2014, accessed May 23, 2016, <http://www.apnorc.org/projects/Pages/HTML%20Reports/public-opinion-in-russia-russians-attitudes-on-foreign-affairs-and-social-issues0401-6253.aspx>

<sup>10</sup> Bryan MacDonald, "'Hybrid Warfare': Anti-Russia propaganda finds a new buzzword," *RT Question More*, February 10, 2016, accessed May 19, 2016, <https://www.rt.com/op-edge/331999-western-media-russia-propaganda/>

<sup>11</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS NO.287* (2008):7, accessed May 3, 2016,



as it became a sensitive topic in the state-NGO relationship. I take a special look at the underlying reasons behind Russia's discomfort over the inflows of foreign cash into the hands of domestic NGOs, in the context of broader Russian relations with the West. The key questions this paper aims to address are, *what logic has triggered the tougher NGO laws; and is there a connection between elements of Russian foreign policy and what the state is doing at home with regard to civil society?*

The work is organized into four sections. The first part describes the nature of civil society in Russia in order to lay out the landscape around which discussion is held. The second part elaborates on the recent developments in NGO law that have affected this landscape. Section three considers implications of poor Russia-West relations for NGOs, as well as offering suggestions about ways in which the two are interlinked. Finally, the paper proposes recommendations in terms of next steps for the development of stronger civil society in Russia given the present internal and external climate, considering the interests of the Russian state, foreign actors and NGOs.

# Chapter 1 – Theoretical Framework

For this research, Neoclassical Realism has been selected as the suitable international relations framework. Since the topic is largely centered around Russia and reading into the behavior and interaction of its state, it is important that the framework is suitable to the nature and actions of the Russian state.

Neorealism on its own has been deemed for the most part adequate based on the Russian government viewpoint being best represented by the following core tenets:

**Statism:** The Russian state is the primary actor in world politics, and its internal composition is less relevant in this analysis. The high centralization of power makes it by far the most dominant actor in the country, and the public treats the state as the guarantor of many rights. It takes a statist approach in many matters,<sup>12</sup> which often cause it to be described as authoritarian and totalitarian.

**Survivalism:** Russia focuses a lot on the need to survive, with specific measures taken to protect it from disintegration and existence. This is not only ensured via military means, but also via schemes to tackle the demographic crisis, which are designed to ensure long-term survivability of the nation - such as the Maternity Capital introduced in 2007.<sup>13</sup>

**Anarchic world system:** The Russian state can be described as a firm believer in authority both internally and externally. An international example is the Syrian crisis, in which Russia asserts that dissolving the current government - however evil, will result in the country falling

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<sup>12</sup> Eleanor Bindman, "The state, civil society and social rights in contemporary Russia," *East European Politics* 31:3 (2015): 344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>13</sup> Fabian Slonimczyk and Anna Yurko, "Assessing the Impact of the Maternity Capital Policy in Russia Using a Dynamic Model of Fertility and Employment," *IZA DP 7705*, October 2013, accessed May 17, 2016, <http://ftp.iza.org/dp7705.pdf>

into anarchy and lawlessness.<sup>14</sup> It also believes in the more powerful nation always dictating the move to its allies, as in its common reference to American partners influencing European ones to carry out certain actions, such as deployment of sanctions<sup>15</sup> or military involvement - a case of “might makes right”. Regarding Europe’s response to the ongoing immigration crisis, Russia has observed the European Union Member States’ difficulties in reaching a workable agreement with each other, with Germany being the stronger player having much more say on what happens.<sup>16</sup> This likely went on to reinforce its view that systems of cooperation are only contextual and inadequate.

**Security dilemma:** Russia can be described as a country with a security dilemma. It is highly cautious on security buildups near its border. This was recently demonstrated by its agitated response to the American installation of part of the missile defense shield in Romania.<sup>17</sup> Furthermore, the NATO quadrupling of 2016 military spend in Europe has resulted in furious Russian reactions, with threats to take appropriate countermeasures.<sup>18</sup> This tit-for-tat behavior increases the risk of confrontation and arms race. The Georgian and Ukrainian crises in 2014 and 2008 have highlighted the Russian need to have adequate “buffer zones”<sup>19</sup> between itself and NATO countries wherever possible.

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<sup>14</sup> Simon Jenkins, “Why the west should listen to Putin on Syria,” *The Guardian*, September 29, 2015, accessed May 1, 2016, <http://www.theguardian.com/commentisfree/2015/sep/29/west-vladimir-putin-syria-us-assad>

<sup>15</sup> “US took advantage of EU by forcing it to sanction Russia-European PM,” *RT Question More*, April 16, 2016, accessed May 25, 2016, <https://www.rt.com/news/339846-us-eu-crimea-russia/>

<sup>16</sup> Celestine Bohlen, “France Takes a Back Seat to Germany in E.U. Migrant Crisis,” *New York Times*, March 21, 2016, accessed May 23, 2016, [http://www.nytimes.com/2016/03/22/world/europe/france-europe-migrant-crisis-germany.html?\\_r=0](http://www.nytimes.com/2016/03/22/world/europe/france-europe-migrant-crisis-germany.html?_r=0)

<sup>17</sup> “US activates \$800m missiles shield base in Romania,” *BBC News*, May 12, 2016, accessed May 19, 2016, <http://www.bbc.co.uk/news/world-europe-36272686> <http://www.bbc.co.uk/news/world-europe-36272686>

<sup>18</sup> “US ‘to quadruple defense budget for Europe’,” *BBC News*, February 2, 2016, accessed May 20, <http://www.bbc.co.uk/news/world-us-canada-35476180>

<sup>19</sup> Ivan Eland, “Russia Has a National Strategy that Matches the Times-Why Doesn’t the U.S.?” *HuffpostPolitics*, May 26, 2014, accessed May 21, 2016, [http://www.huffingtonpost.com/ivan-eland/russia-has-a-national-str\\_b\\_5029579.html](http://www.huffingtonpost.com/ivan-eland/russia-has-a-national-str_b_5029579.html)

Neoclassical realism extends the neorealism framework by adding the “states' mistrust and inability to perceive one another accurately” that can lead to “the rise and fall of great powers, and war.”<sup>20</sup> This extension applies to the Russian state due to its never-ending suspicion of foreign actors plotting various agendas on its soil.<sup>21</sup> Under the neoclassical realism framework, Russia particularly risks the occurrence of *overbalancing*, which “occurs when a state incorrectly perceives another state as threatening, and uses too many resources than it needs to in order to balance.”<sup>22</sup> Therefore this framework is therefore an enhancement over neorealism for this particular case, as it provides the basis for a more complete analysis of the Russian state viewpoint of the world stage, and the implications for civil society.

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<sup>20</sup> Gideon Rose, “Neoclassical Realism and Theories of Foreign Policy,” in *World Politics*, ed. Mark Beavis (Cambridge University Press, 1998), 144-172, <http://www.jstor.org/stable/25054068>

<sup>21</sup> G. Minasyan, A. Voskanyan. Zarubezhnie NPO - Mehanizm Vliyaniya na Vnutrennyuyu Politiku v SNG. [Foreign NGOs - the Mechanism of Influence over CIS Internal Politics]. Obozrevatel - Observer.

<sup>22</sup> Gideon Rose, “Neoclassical Realism and Theories of Foreign Policy,” in *World Politics*, ed. Mark Beavis (Cambridge University Press, 1998), 144-172, <http://www.jstor.org/stable/25054068>

## Chapter 2 – The Nature of Civil Society in Russia

Russian civil society is a result of the dynamic that has been taking place between the state the public, and to some extent foreign actors. Predictably, much of it is the result of Soviet legacy which has left a deep imprint on the mentality of its citizens, as well as influenced the structure of the Russian government. In order to be able to assess the ability of the NGO to perform successfully in current-state Russia, it is first important to place the Western and Russian understandings of civil society against one another, in order to understand how they differ in their basic foundations.

### 2.1 Russian Interpretation of Civil Society

According to the summary given by Bindman (2015), the classical liberal view of “civil society” is of “a range of formal and informal associations that operate independently from the state”, thus being able to “act as a counterweight to state institutions, restrict its authoritarian tendencies”. This makes civil society the buffer, occupying the “space between the individual, the state and the market”. Whilst not necessarily engaging directly in activity that can be called “political”, these social organizations are nevertheless seen as “political and contentious in relation to the state”, and “a key element in the process of successful democratization”.<sup>23</sup>

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<sup>23</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 342–360, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

On the other hand, Russia's system, which has previously been characterized as a "hybrid regime", cannot be called entirely democratic nor entirely authoritarian. Whilst featuring some elements such as a constitution and elections, this was counter-balanced with a considerable amount of executive control over the legal system, parliament, regional authorities and the media<sup>24</sup>. The nature of the regime has produced some interesting observations, where the government can co-operate with an NGO on an "on and off" alternating basis. As an example of this, research by Daucé (2015) examining the relationship between a prominent NGO Moscow Helsinki Group (MHG) and the Russian state has shone light on the two sides of the state. The author claims that at times, the MHG activists were even physically confronted by law enforcement forces in the street during the demonstrations they attended, highlighting the oppressive authoritarian side of the Russian regime. But on other occasions, MHG has been invited to engage in discussion procedures as well as cooperation with the Russian administration<sup>25</sup> - highlighting the more democratic side of Russia. However, the author makes clear that this is done within the legal framework established by the government. This is a clear case of the government willing to listen but under its own terms, and therefore a form of exertion of control.

Bindman also acknowledges that Russia follows the "statist concept of relations with civil society". The scholar notes that state and society are interdependent and cannot function in autonomously from one another. Consequently, the outcome is that society is viewed as "completing the state rather than diminishing or challenging it". Under this arrangement, the state has significant influence over the formation and activities of civil society, including

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<sup>24</sup> Eleanor Bindman, "The state, civil society and social rights in contemporary Russia," *East European Politics* 31:3 (2015): 342–360, accessed May 11, 2016

<sup>25</sup> Françoise Daucé, "The Government and Human Rights Groups in Russia: Civilized Oppression?," *Journal of Civil Society* 10:3(2009): 240, accessed May 9, 2016, <http://dx.doi.org/10.1080/17448689.2014.941087>

NGOs.<sup>26</sup> In the case of larger NGOs with foreign links such as MHG, it becomes necessary for the NGO and the state to reach a compromise, whereby direct conflict with the authorities is diminished and cooperation is given in *exchange for* keeping within the government-set boundaries - allowing the state to maintain political domination.<sup>27</sup> This is an indication that without a working relationship with the state, it is not possible for NGOs to sustainably function in the political sphere.

As per Bindman's elaborations, the statist concept became apparently reflected in governance under Putin from 2004 onwards, which pursued a policy of creating a "top-down" model of civil society. As a result, it rewarded those NGOs that were classed to be carrying out "socially useful" activities with grants and other support. Simultaneously, NGOs that had been found to be counterproductive to the state, especially human rights and environmental NGOs, were excluded. The NGOs which operated in the interest of solving specific social problems of children, disabled people, elderly people and other vulnerable groups in society had a more compatible relationship with the authorities, but were still subject to state scrutiny although of a different kind.<sup>28</sup>

With regards to public view on areas where NGOs should be active, research in the last decade has shown that protection of women and children, as well as other socially vulnerable groups tops the list, with respectively 40% and 33% of respondents believing so (see Figure 1). Also

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<sup>26</sup> Eleanor Bindman, "The state, civil society and social rights in contemporary Russia," *East European Politics* 31:3 (2015): 344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>27</sup> Françoise Daucé, "The Government and Human Rights Groups in Russia: Civilized Oppression?," *Journal of Civil Society* 10:3(2009): 240, accessed May 9, 2016, <http://dx.doi.org/10.1080/17448689.2014.941087>

<sup>28</sup> Eleanor Bindman, "The state, civil society and social rights in contemporary Russia," *East European Politics* 31:3 (2015): 344, accessed May 11, 2016

popular was reform of housing and communal services (30%), education (29%), healthcare and medicine (25%); but concerning other rights the same cannot be said - such as human rights, local self-government, environment, culture and arts, scientific research, sports, and independent mass media; where proportions of responses barely approach 5 or 10%.<sup>29</sup> This is an example of where the public view matches that of the state, as both groups consider that NGOs should function in areas that specifically deliver social benefits of some kind.

Potentially, Bindman signals the classical liberal model is not going to fit in with the Russian norms. In line with the classical liberal views, in the years following the dissolution of the Soviet Union, Western aid tended to favour NGOs promoting “feminist, environmental and human rights causes” that were independent and had similar views and values to their international donor organization.<sup>30</sup> As Bindman commented, this strategy has been unsuccessful in leading to the advancement of a grassroots NGO movement in post-Soviet Russia. Instead, the effect this had was the fostering “of a small, isolated and elitist community of professional advocacy NGOs who focused on campaigns and issues more likely to appeal to their Western donors than their domestic constituents”, whilst also being heavily reliant on foreign funding for their survival.<sup>31</sup> Based on the observation of fruitless efforts of Western donors, by the early 2000s, many scholars had concluded that civil society in Russia was “weak, ineffective and likely to remain so for some time to come.”<sup>32</sup>

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<sup>29</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):5, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>30</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 343-344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>31</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 343-344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>32</sup> *Ibid.*, p.343



Bindman has challenged the view amongst scholars including Ljubownikow, Crotty, and Rodgers, who consider the state is a dominant character that exercises unacceptable amounts of direction, controlling the formation and development of civil society; whilst the NGOs are simply “marionette” organizations that cannot neither influence the government decision, social policy making processes, or perform as effective advocates for rights and entitlements<sup>33</sup>. The scholar emphasizes the need to put civil society in the correct Russian perspective, where much of the norms have been inherited from the Soviet Union.<sup>34</sup> Communism had provided an extensive amount of economic and social rights to citizens including security of employment, allowance for rest, free education and healthcare, as well as material security in old age and illness; albeit often “on a discretionary basis in exchange for loyalty in everyday life.”<sup>35</sup> Therefore the definition of “human rights” was something closer in nature to being social and economic rather than civil and political.<sup>36</sup> Little appears to have changed since. Despite the Russian Constitution of 1993 having delivered changes which did alleviate the limits placed on civil and political rights, it had still continued to position the Russian Federation to being a “social state”.<sup>37</sup> This is confirmed in Bindman’s (2015) interviews with Russian NGOs, where it became evident that:

*“There are differences between how social rights are understood in Europe and in Russia because of the influence of our Soviet past. Lots of people expect something from the state in*

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<sup>33</sup> Ibid., p.344

<sup>34</sup> Ibid., p.345

<sup>35</sup> Ibid., p.345

<sup>36</sup> Ibid., p.345

<sup>37</sup> Ibid., p.345

*the social sphere, whether it's housing or some kind of social security payment. (Katya, staff member for a regional human rights ombudsman, St Petersburg)''*<sup>38</sup>

On the other hand, 2014 survey data shows that whilst people do expect much from the state in the social sphere, they don't actually feel that they have much influence on local government decision making on matters important to them. Of those surveyed across the country, 79% have responded that they either probably or definitely don't have such influence (See Figure 2).<sup>39</sup> This indicates a problem in the method of governance, which leaves the public feeling unable to influence their ultimate guarantor of social rights (i.e. the state), but neither convinced that it is NGOs' responsibility to fight for their rights.

One key indicator for civil society development is the public support for NGOs. There is some evidence to say that Russia, NGOs do not benefit very much from it. In one example 2006 research by the Levada Center, 68% of the surveyed nationwide sample did not feel that the law protects them, with 32% raising "concerns about serious human rights abuses in the country".<sup>40</sup> Nevertheless only 4% would see NGOs as an option as a place to seek assistance in the case of such rights abuses. Knowledge about the most prominent and large scale NGOs is limited also - with only 22% and 8% being familiar with what Memorial Society and MHG carry out. Interestingly, Russian people still expect their government to provide support to such organizations on a national, subnational and local government level,<sup>41</sup> which seems to suggest

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<sup>38</sup> Ibid., p.348

<sup>39</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p.105

<sup>40</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS NO.287* (2008):4, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>41</sup> Ibid., p.4

that the public is not opposed to the idea of having such NGOs, and that civil society does have a place in Russia.

Further proof for this are the findings reported in the 2014 Charities Aid Foundation (CAF) report, 41% of respondents had made a donation to a non-profit organization in the preceding twelve months.<sup>42</sup> This is a considerable portion of the population, suggesting that the Russian public is in principle open to support nonprofit causes, giving additional hope for successful civil society. Of the beneficiaries, it appears that those NGOs that support children, emergency cases, churches and religious organizations, families and people in difficult circumstances and generally adults have received the most frequent help (See Figure 3). Interestingly, NGOs concerned with elderly persons, homeless persons, medical causes, education, sport and medical cases have not enjoyed the same contribution. This could indicate that the public expects the state to be responsible for dealing with these cases, or alternatively the main contributor to the non-profit organizations that help deliver in those fields. Unsurprisingly human rights is near the bottom of the list, which is most likely because the public does not see the urgency of resolving these matters, or feeling that it is impossible to help without state involvement.

On the subject of human rights, it must be noted that Russians perceive it in three normative dimensions: civil liberties - which includes freedom of religion, association and expression; economic rights - covering the right to work, social welfare and property ownership, and individual rights - including freedom from arbitrary arrest and torture. It has been found that the 65% majority of those surveyed are most interested in the economic rights dimension, and least interested in civil rights - with only 12% seeing it as important<sup>43</sup>. This follows the principle

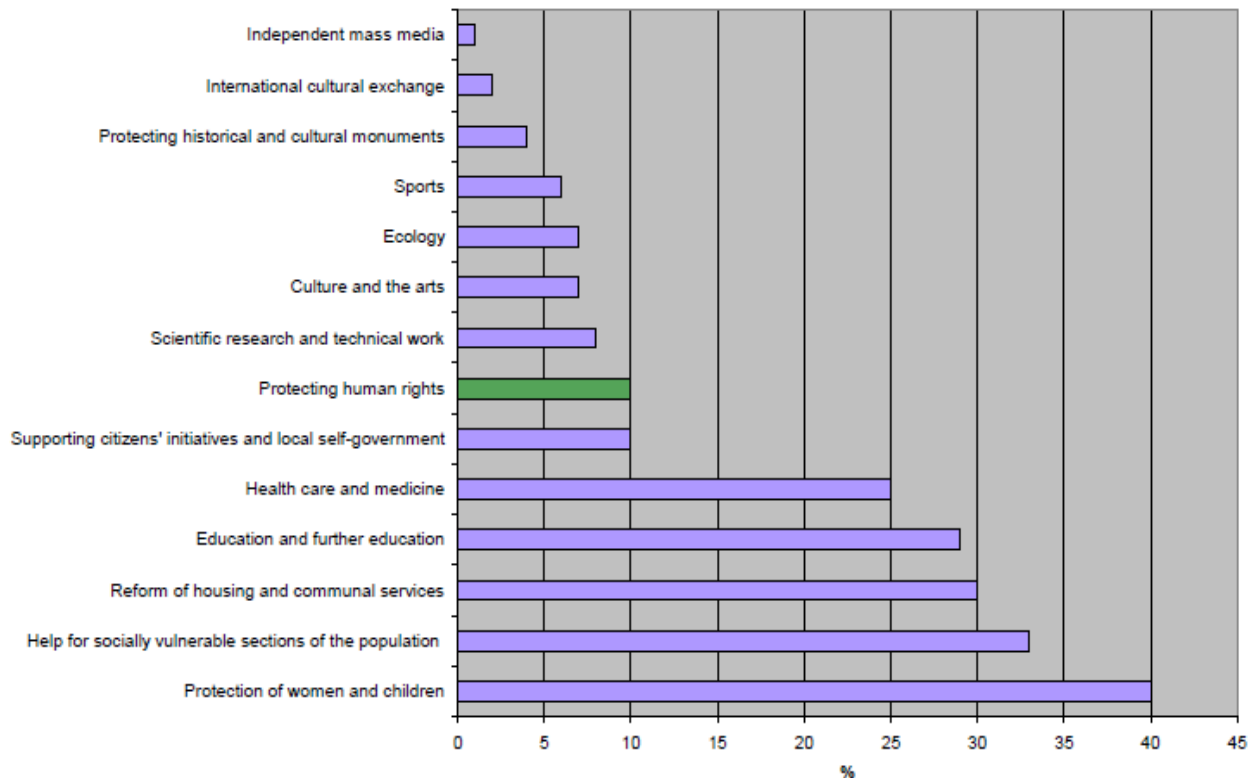
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<sup>42</sup>The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p 93

<sup>43</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS NO.287* (2008):5, accessed May 3, 2016,

that the majority of the public is not so concerned about the less tangible aspects of human rights, which are seen as basic ingredients of a democracy in Western countries.

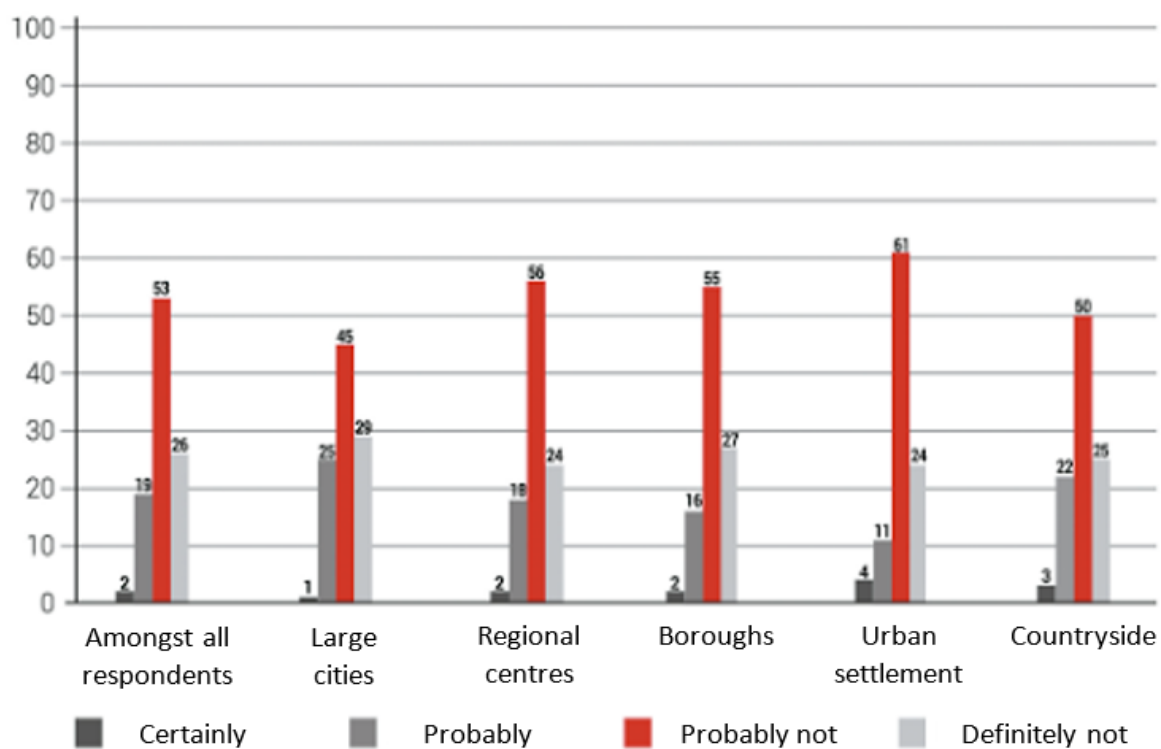
**Figure 1-** Areas in which NGOs should be active



*Source:* Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS* NO.287 (2008):5, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

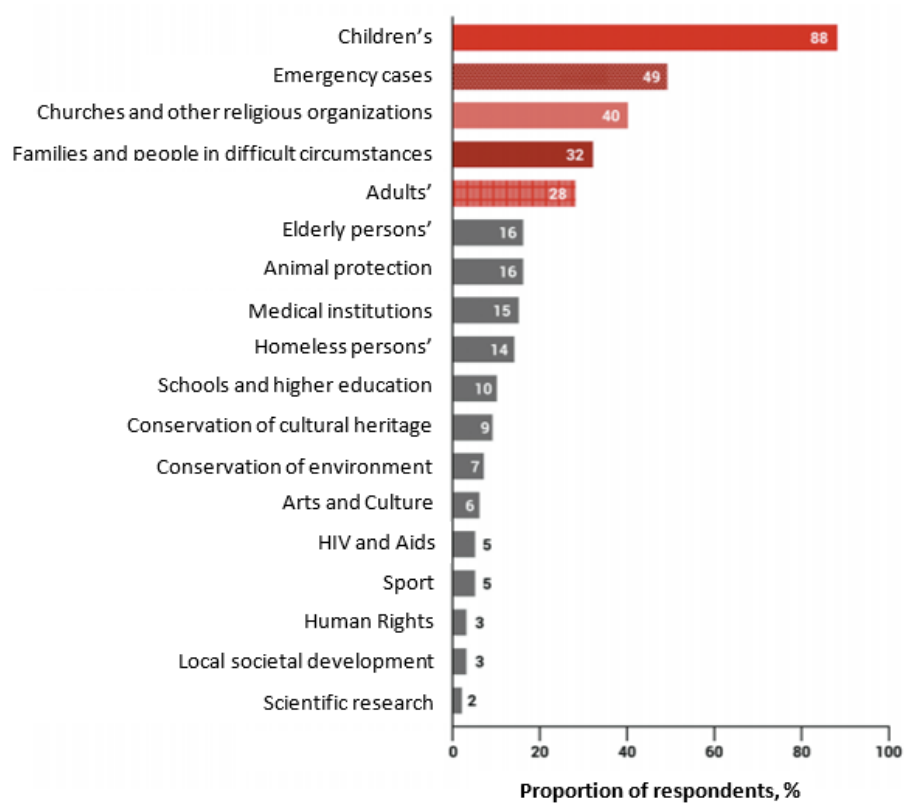
<https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

**Figure 2-** Ability of citizens to influence local government decisions on matters important to them (%)



Source: Figure translated from The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p.105

**Figure 3-What areas of charitable NGOs did you support financially in the last 12 months?**



Source: Figure translated from The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p.94

## 2.2 Socially Oriented NGOs and the State

NGOs that take part in “social” work rather than “political” are referred to as Socially-Oriented (SO) NGOs. Bindman (2005) emphasizes that SO NGOs, which through the nature of their purpose comply with the Kremlin’s “prescribed boundaries” were being rewarded, in the sense that they have been eligible to apply for generous grants. These grants were started becoming available from 2006, and have been handed out by the grant competition sponsored by the Kremlin. The grants have been allocated for supporting projects concerning with health, youth, the improvement of civil society, socially underprivileged people, education as well as culture. Whilst in 2010 the list of eligible organizations for government funding has expanded to include human rights NGOs as well, the socially-focused NGOs were still in receipt of much more assistance. The scholar evaluates that this “funding drive” is a measure taken by the Kremlin with the aim of creating a civil society in Russia that is “coherent, ordered space where individuals assist the state in the interest of the whole”.<sup>44</sup> It is evident that through this grants system, combined with tax breaks and better working conditions introduced in 2010 for NGOs which provide a service that is deemed of benefit to society,<sup>45</sup> Russia has significantly upped its contribution to civil society. This is in contrast to the period before 2006, where the main provider of funds to Russian civil society organizations have been foreign donors.<sup>46</sup>

It must not be overlooked that the Russian constitution guarantees an extensive range of social rights, including the right to housing, health protection, state-sponsored social security and

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<sup>44</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>45</sup> Ibid., p.344

<sup>46</sup> Ibid., p.344

education.<sup>47</sup> Bindman (2015) points out that social rights in Russia receive much less coverage than what she has defined as “civil and political rights issues” promoted by Russian human rights NGOs, despite what she claims are of “equal or often greater importance to the general public”. She also notes that the discussions which are held in the Western political spheres and the media on Russian civil society is disproportionately centered around human rights, with little respect for the fact that they constitute a minority of the civil society organizations in Russia.<sup>48</sup>

Whilst it may appear so, it is not just the government, which is peddling the message that it is the guarantor for promoting and protecting social rights of its citizens, but the Russian public expectations had something to do with it as well, which in 2010 has overwhelmingly responded to a survey with a view that “the state should care more about its people”, with only 12% answering that “people should act on their own initiative and take care of themselves”<sup>49</sup>. People expect the state to be the ultimate protector and provider of welfare, and therefore are unlikely to turn to NGOs.<sup>50</sup> Whenever the social subsidies for vulnerable groups of people for housing, healthcare and transport are hit - even those that predate the dissolution of USSR, the public respond furiously as evidenced in January 2005 demonstrations.<sup>51</sup> The response of the Russian government was to implement reforms to the welfare system; albeit to a limited extent, which

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<sup>47</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 343-344, accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>48</sup> Ibid., p.344

<sup>49</sup> Ibid., p.345

<sup>50</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):4, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>51</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 346



Bindman uses to argue that unlike the common view of the state as a “rigid and unbending regime”, the system has in fact shown flexibility to act upon strongly-held public views.<sup>52</sup>

Taking public expectation into account, it is not surprising for the Russian leadership under Putin to have embarked on a “new strategy of re-centralization” from 2005 onwards, including a number of “National Priority Projects” on agriculture, education, healthcare, and housing kicked off in order to deliver better social services, portraying itself as a “champion of social rights issues”.<sup>53</sup> An insight into the government understanding of the people is given by an extract from Putin’s speech below:

*“In terms of which rights people consider to be their priorities, the right to employment (and with it the right to earn an income), the right to free healthcare and education for children are a long way ahead at the top of the list. Restoring and guaranteeing people these rights has been the key objective of the Russian state.” (February 6, 2012)<sup>54</sup>*

According to Bindman’s rationalization, Putin’s liberalizing reforms in his first term as President meant that Russia could not realistically deliver socially what it was perceived to be obligated to deliver under the “statist” approach. However, the rhetoric of the government during Putin’s subsequent terms deliberately placed the state as responsible for “improving the

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<sup>52</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 346 accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>53</sup> Ibid., p.346

<sup>54</sup> Ibid., p.346

quality and delivery of social services in order to solve problems”.<sup>55</sup> Therefore, in order to meet the raised public expectation of welfare and the aims of the national projects, it was natural that Russia had transferred the provision to the SO NGOs or commercial entities. This has been referred to as “Soviet-style neoliberalism”, whereby the official rhetoric makes “socialist-sounding claims”, but does not back it up it by actual policies to improve provisions.<sup>56</sup> In Bindman’s (2015) interview of 31 Russian NGOs, one message came across strongly:

*“Our government likes to say that we have a strong state which can provide people with social assistance but we see that those clients who we try to refer to state social services for help end up coming back to us – for the government it’s all just words but in reality they do very little. (Lydia, healthcare NGO, Moscow) ”*<sup>57</sup>

Overall, the views of NGOs of cooperating with the government are balanced. In the human rights field Klitsounova (2008) claims that some NGOs oppose the principle of building cosy relationships with politicians and bureaucrats from the government, as this would “provide Putin’s authoritarianism with respectable ‘democratic’ clothes”, whilst shielding it from condemnation with regards to worsening human rights’ situation. On the other hand, many recognize that being in a continuous relationship with the government is paramount for

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<sup>55</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 346 accessed May 11, 2016, <https://qmro.qmul.ac.uk/xmlui/handle/123456789/10270>

<sup>56</sup> Ibid., p.346

<sup>57</sup> Ibid., p.347

successful advocacy of rights, and everything must be done to gain access and educate decision and policy-making individuals as well as other actors about human rights ideas.<sup>58</sup>

What is undoubtable is that government policy has had profound impact on the growth of SO NGOs, which numbered 96,000 in 2011 and expanded by 17.8% to 113,000 in 2013 (See Figure 4).<sup>59</sup> This cannot be bad for the Russian public. The state has managed to attract a large volunteer base to man the NGOs, which have grown significantly in numbers as well. The funding allocated for SO NGOs has peaked in 2014 to 5.7bn rubles and then had to fall in the subsequent years likely due to the economic squeeze in the low oil price and sanctions that followed. Which is impressive considering that the funding scheme had only been formally kicked off in 2006.

In 2012, government grants accounted for 16% of total income that socially oriented NGOs received, with 38.9% being the top contribution coming from the NGOs raising their own money through trading paid goods and services, and other operations. Income from foreign organizations or individuals has only accounted for 2.2% of the total,<sup>60</sup> which could be low as a result of the Foreign Agents law, or the reluctance of funding the government-encouraged sections of Russian civil society. This also shows that from the funding perspective, NGOs do not have to be over-reliant on the government or foreign aid, as statistics show that a significant

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<sup>58</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS* NO.287 (2008):6, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>59</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p 105

<sup>60</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p 129

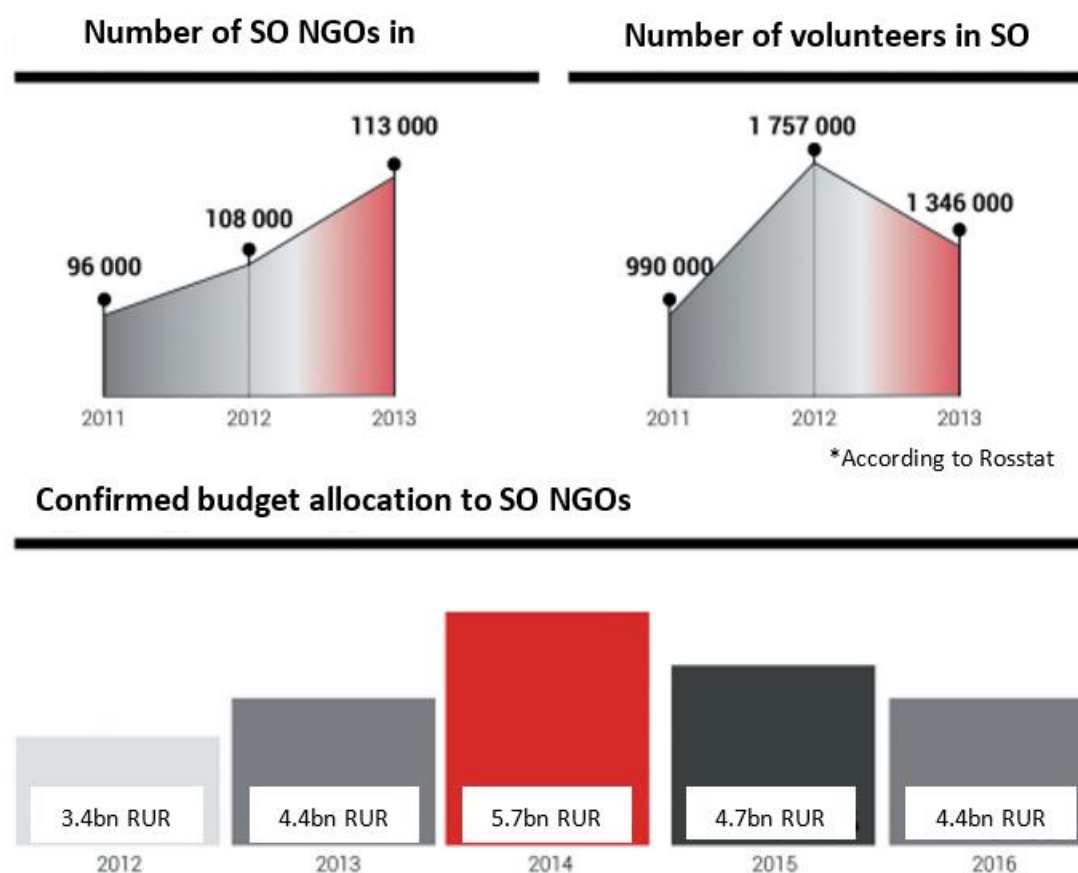
part of NGO funding (combined 38.6%) came from Russian commercial and non-commercial organizations.<sup>61</sup>

Judging by the facts and figures, it can be argued that the state focused on what Russians want, even if at the cost of other liberties considered essential by Western democracies, such as genuine freedom of speech and the press. Somewhat predictably, the de facto situation in Russia is that the system of governance and the public attitude have not adapted to a more liberalized way of thinking, which have been conditioned to place the more “tangible” social and economic rights far ahead than the less visible civil and political.

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<sup>61</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p 129

**Figure 4-**The development dynamic of socially-oriented (SO) NGOs



Source: Figure translated from The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p 105

## Chapter 3 – Recent Developments in NGO Law

Despite the lack of clear and stable laws governing civil society, the number of NGOs has grown rapidly during Yeltsin years to approximately 375,000 by 2001. This continued growing under Putin's first term, to over 665,000 registered NGOs in 2007, including both active and inactive organizations.<sup>62</sup> However, this was unsustainable due to the introduction of tighter restrictions and requirements, which are explored in this section.

### 3.1 – 2006 NGO Law

The “2006 NGO Law” was to be the first part of a broader reform to the Civil Code, which has been associated with tighter state control over civil society and even direct interference in internal operations of NGOs.<sup>63</sup> The main requirements and changes that were introduced have been summarized below from The Centre for European Policy Studies (CEPS) Working Document No. 287.

Under the new regulations on registration and accountability procedures implemented with “Decree No. 212” issued on 15 April 2006 and came into effect with “Federal Law No. 18-FZ of 10 January 2006 on introducing amendments to certain legislative acts of the Russian Federation”, Russian NGOs have been made responsible for:

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<sup>62</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):5, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

<sup>63</sup> *Ibid.*, p.7

- Double registration by both the tax authorities and the Rosregistratsia [Federal Registration Service (FRS)].
- Informing state authorities in detail about their activities and management, the funds they receive (including donations), their assets, and the planned and current use of funds for all programs in Russia.
- Submission of annual reports on their activities by April 15 of each year

The authorities have been given the following new powers:

- To reject an NGO's registration at their own discretion based on the content of their registration documents.
- Disband an NGO for failing to submit the annual report in a timely manner.
- To demand any document from an NGO at any time, without a warrant, and be present at all NGO events."<sup>64</sup>

In addition, the law had placed restrictions on the receipt of overseas donor funds by domestic NGOs.<sup>65</sup> The justification given by officials for this stricter control over the sources of income of Russian NGOs was quite generic, citing "fight against terrorism" and "money laundering"<sup>66</sup>. There is some evidence to legitimize these concerns. The erratic development of civil society in a period of feeble and incomplete regulation of the 1990s led to a number of NGOs acting "as fronts for commercial or criminal organizations", as well as the emergence of non-governmental individuals (NGIs) whose main goal was to win overseas grant money.<sup>67</sup> At the turn of the twenty-first century, the Russian state realized that domestic philanthropy needed to be encouraged in order to provide legitimate NGOs with domestic funding, the attraction of

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<sup>64</sup> Ibid., p.7

<sup>65</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, "Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law," *Europe-Asia Studies* 66, no.8 (October 2014): 1254, accessed May 1, 2016

<sup>66</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS NO.287* (2008):5, accessed May 3, 2016

<sup>67</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, "Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law," *Europe-Asia Studies* 66, no.8 (October 2014): 1253, accessed May 1, 2016

which depended on the sector having more professionalism, greater transparency and financial control.<sup>68</sup> Understandably, carrying on under existing system would add to the general lack of order not restricting to civil society, and could jeopardize the coherency of the transition to a market-driven economy.

Furthermore, Vladimir Putin had offered a glimpse of what appears to be the more relevant prompt for the 2006 Law, by stressing repeatedly that he is against foreign sponsoring of what he described as “political activities” of NGOs in Russia.<sup>69</sup> “Colour Revolutions” in Ukraine, Georgia and Kyrgyzstan in 2004 and 2005 have alarmed the Russian government, which has inspired its interpretation of overseas assistance for democracy-development as a threat to its sovereignty.<sup>70</sup> Therefore, Crotty, Hall and Ljunownikov (2014) as well as other scholars evaluate the 2006 NGO Law as “not only an attempt to impose order on what was a dispersed and underdeveloped sector but also to curb foreign support for NGOs.”<sup>71</sup>

One consequence of the 2006 law has been the “tidying up” of the thousands of registered but barely active, less professional NGOs. Only 216,000 NGOs managed to re-register as per new requirements by the deadline,<sup>72</sup> which also goes on to show that many did not have the capability to cope with the more burdensome administrative requirements. **Figure 5** goes some way to illustrate the impact of the changes introduced under this law on the administrative workload of NGOs. Majority of the sampled organizations responded to the survey that there

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<sup>68</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, “Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law,” *Europe-Asia Studies* 66, no.8 (October 2014): 1253, accessed May 1, 2016

<sup>69</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):7, accessed May 3, 2016

<sup>70</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, “Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law,” *Europe-Asia Studies* 66, no.8 (October 2014): 1254, accessed May 1, 2016

<sup>71</sup> *Ibid.*, p.1254

<sup>72</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):2, accessed May 3, 2016



will be no change to their economic expenses in order to meet the requirements of the new legislation, whilst 17%<sup>73</sup> have said that their economic expenses will either increase or considerably increase. Whilst the latter number appears to be reasonably low for what was feared to be a lot of new work for NGOs, it is important to note that the changes to “economic expenses” are unlikely to have been measured consistently in first place. For example, hiring new staff or buying new equipment may not have been required, however existing staff may have had to divert efforts from a core NGO activity to administrative tasks - thus recording no change in expenses whilst compromising effectiveness. The data also hints that many NGOs may have already been fulfilling much of the requirement for internal purposes before the enactment of the law, making only minor tweaks to the routines.

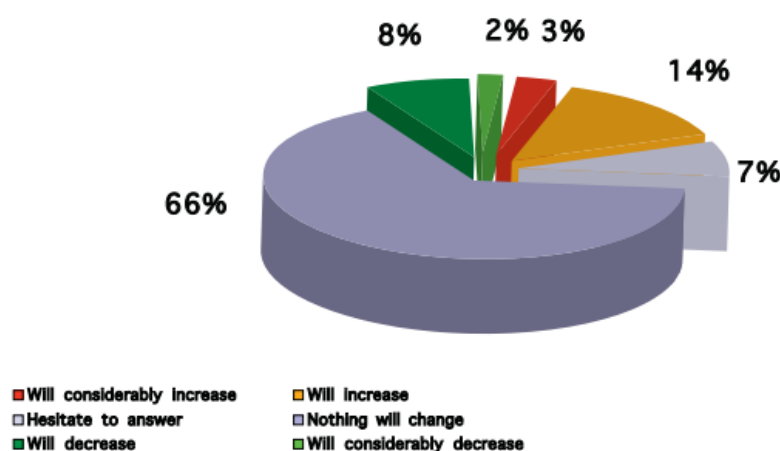
It is important to note that the landscape for NGOs began changing even before the 2006 law was implemented. One change was the increasing difficulty for NGOs in accessing the right people in the government structures who can assist reform. Following the collapse of the Soviet Union, Klitsounova (2008) in her work on *Promoting Human Rights in Russia by Supporting NGOs* highlights that there has been a short window of opportunity for NGOs to form and get firmly on their feet. In the 1990s many human rights activists were members of federal and regional parliaments and governments, with heavy involvement in drafting and implementing legal reforms in Russia. When Yeltsin left office, radical reform became no longer possible, so human rights NGOs had very constrained access to decision and policy making members, facing great difficulty in developing their networks in order to have influence on the right organs<sup>74</sup>.

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<sup>73</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2007, p.71 [https://www.oprf.ru/files/doklad\\_-engl-verstka.pdf](https://www.oprf.ru/files/doklad_-engl-verstka.pdf)

<sup>74</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):5, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>

**Figure 5-Evaluation of changes of economic expenses owing to effectiveness of the new legislation on NPOs**



Source: The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2007, p.71 [https://www.oprf.ru/files/doklad\\_-engl-verstka.pdf](https://www.oprf.ru/files/doklad_-engl-verstka.pdf)

Encouragingly, the 2006 Law has been relaxed in a few areas in 2009 under Medvedev’s rule. First, smaller NGOs no longer had to report their annual revenue if it was under 3 million rubles (approximately USD \$100,000 at the historic exchange rate). Second, the specified compulsory audits of all NGOs would be undertaken once in 3 years instead of on an annual basis.<sup>75</sup> The breathing space created by these amendments and a large revenue threshold is an encouraging sign, and should have been received positively by the civil society - despite other parts of the law remaining largely intact.

<sup>75</sup>Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, “Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law,” *Europe-Asia Studies* 66, no.8 (October 2014): 1254, accessed May 1, 2016

However, shortly afterwards, further changes to Russian law have been introduced, which meant more regulation for civil society. Amendments have been enacted to the NCO, Law which introduced the status of “socially oriented” organizations (“SOOs”) in April 2010, which can be interpreted as the definition of what it considers “friendly” sectors of civil society that it is ready to support. The new law makes these organizations eligible for state support. SOOs, or more commonly known as “SO NGOs” engage in a broad range of activities, including traditional charitable work, the provision of free-of-charge legal aid and the protection of human rights. The International Center for Not-for-Profit Law also reports that as of October 2015 there are 17 types of such “socially oriented” activities, with new additions being continually made.”<sup>76</sup> This seems to suggest that in principle, the state is not against civil society, however it requires to have significant oversight and ensure that it is in line with the aspirations of the government. However, the problem caused for NGOs does not simply consist of extra work and detailed accounting, but the added state scrutiny that these organizations would be under following all the disclosures they have to make.

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<sup>76</sup> “NGO Law Monitor: Russia,” The International Center for Not-for-Profit Law, accessed May 4, 2016, <http://www.icnl.org/research/monitor/russia.html#top>

## 3.2 – 2012 “Foreign Agents Law”

In 2012, when President Putin came back to power after being Prime Minister, he toughened the NGO regulations from the position of liberalized amendments made in 2009 by his precedent Dmitry Medvedev, but also from the more demanding 2006 position.<sup>77</sup> The Foreign Agents Law had the most profound implications on post-Soviet Russian civil society yet. Within two months of the President’s inauguration for the third time on 7 May 2012, the law was passed in the face of robust public resistance. Both Russian NGOs and a wide range of other organizations have fruitlessly protested, including lawyers’ associations, higher educational institutions, whilst proposals from the Presidential Council for Human Rights and Development of Civil Society (PCHRCS) have been disregarded.<sup>78</sup> The contents of the law have been summarized below:

*All non-profit organizations that receive financial or any other aid from foreign states, state departments, international and foreign organizations, foreign citizens, stateless persons; and that participate in political activity in Russia would be required to call themselves non-profit organizations functioning as “foreign agents.”*<sup>79</sup>

Pitts and Ovsyannikova (2014) had summarized impacts of the law on NGOs that receive foreign aid as follows:

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<sup>77</sup> Russia’s new treason Statute, Anti-NGO and other repressive laws: “Sovereign Democracy or Renewed Autocracy?” p.120

<sup>78</sup> Geir Flikke (2016) Resurgent authoritarianism: the case of Russia's new NGO legislation, Post-Soviet Affairs, 32:2, 103-131. p.103

<sup>79</sup> Russia’s new treason Statute, Anti-NGO and other repressive laws: “Sovereign Democracy or Renewed Autocracy?” 2014, p.120

In terms of registration and reporting requirements NGOs must

- (a) register as a foreign agent in the state list of foreign agents;
- (b) provide quarterly reports on its activity, funding, and expenditures (quarterly), and governing board reports in half yearly intervals;
- (c) provide audit reports annually.

As part of the requirement, all materials of foreign agent NGOs published in mass media must be marked as from a foreign agent NGO. In addition, the state committee would be getting new power through vaguely expressed authorization, which allows it to implement unscheduled inspections if “there is information in the mass media that an NGO’s activity bears the signs of extremism.” In the case that an NGO refuses to register as a foreign agent, the state committee is empowered to stop the NGO’s work for up to six months until it registers. The law also modifies the Criminal Code of Russia, providing two years’ imprisonment for refusal to register as a foreign agent NGO as well as three years for the creation of, and two years for participation in, a foreign agent NGO whose activity “is to invite Russian citizens to ignore their civil obligations and commit unlawful acts.”<sup>80</sup>

Pitts and Ovsyannikova (2014) pick out the justification given by the Russian State Duma for this law, as to “bring openness and publicity to the work of NGOs... and organize public control of NGOs functioning as foreign agents”. The Russian foreign minister went a step further and has drawn parallels between the newly implemented law and the U.S. Foreign

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<sup>80</sup> Chip Pitts and Anastasia Ovsyannikova, “Russia’s New Treason Statute, Anti-NGOS and Other Repressive Laws: “Sovereign Democracy” or Renewed Autocracy?” *Houston Journal of International Law* 37:1 (2014): 120, accessed May 4, 2016, <http://www.hjil.org/articles/hjil-37-1-pitts-ovsyannikova.pdf>

Agent Registration Act<sup>81</sup>, suggesting that both are a form of state-monitoring of NGOs. However, the authors argue that the United States only “requires the registration of an NGO that acts at the order, request, or under the direction or control of a foreign organization or person”, and is therefore more precise than the Russian law with its target range. They contrast this with the Russian law, which disregards whether the NGO acts under foreign instructions or not; so long it receives funding from abroad, it is assumed to act “under the orders of, and for the benefit of that foreign funder” and must register as a foreign agent.<sup>82</sup>

The law has been criticized for stigmatization of foreign-funded NGOs. The term “Foreign Agent” itself carries more weight in Russian language, as “Inostrannyi agent” resonates with the memories of the Cold War era, where the words have been used in connotation with spies and traitors, and has therefore led to harassment of some organizations.<sup>83</sup> For a prominent NGO such as Moscow Helsinki Group (MHG), which back in the late 1980s helped bring about the collapse of the Soviet Union through its support for Boris Yeltsin in the struggle against Mikhail Gorbachev<sup>84</sup>, the attachment of “Foreign Agent” title would have been seriously detrimental to its values, activities and domestic popularity. The bringing down of the USSR could be perceived by the public to have been the ultimate goal of such an agent during the East-West struggle, the event which more than half of Russian citizens regret to this day<sup>85</sup>. This is likely to have been a significant reason why the Helsinki Group chair Lyudmila Alekseeva

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<sup>81</sup> Russia’s new treason Statute, Anti-NGO and other repressive laws: “Sovereign Democracy or Renewed Autocracy?” p.121-122

<sup>82</sup> Russia’s new treason Statute, Anti-NGO and other repressive laws: “Sovereign Democracy or Renewed Autocracy?” p.121-122

<sup>83</sup> International Commission of Jurists. Russian Federation: Report on the Constitutional Court Proceedings and Judgment on the “Foreign Agent” Amendments to the NGO Law, 2014. p.9 <http://www.icj.org/wp-content/uploads/2014/09/RUSSIA-FOREIGN-AGENTS-elec-version.pdf>

<sup>84</sup> Françoise Daucé (2014) The Government and Human Rights Groups in Russia: Civilized Oppression?, *Journal of Civil Society*, 10:3, 239-254, p.241

<sup>85</sup> “Most Russians regret USSR collapse, dream of its return, poll shows,” *RT Question More*, April 19, 2016, accessed May 8, 2016, <https://www.rt.com/politics/340158-most-russians-regret-ussr-has/>

declared categorically that the organization would never register as a “foreign agent”, however it would still abide by the 2012 law by giving up its foreign funding.<sup>86</sup>

Several other NGOs expressed their displeasure with this law to the extent that many refused to follow it by not registering as a “foreign agent”. Notable examples include Transparency International-Russia and the organization countering discrimination Memorial, whose functioning relied heavily on monetary help from abroad. In response by the state, several NGOs have been intimidated with threats of closure, of which “Memorial” was one. A number of international bodies and commercial news organizations have responded with criticism, including the Council of Europe, expressing concern over the apparent crackdown on Russian civil society.<sup>87</sup>

According to the state-sponsored media outlet *Russia Today*, the first NGO to be formally warned has been “No to Alcoholism and Drug Addiction”. However, it is not entirely clear whether the state was exercising its new powers, as the Justice Ministry had stated on its website at the time that the financial documents it had requested from the NGO had been on the basis of the previous 2006 law that regulated reporting requirements of NGOs.<sup>88</sup>

The School of Russian and Asian Studies (SRAS) 2014 report summarizes the important NGOs that have been affected by the chunky fines introduced for breaking the 2012 Law: Golos, Kostroma Center for public initiatives support, Memorial, and the Side by Side LGBT

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<sup>86</sup> Alexander Podrabinek, “The Choice of Agents,” *Institute of Modern Russia*, August 8, 2013, accessed May 10, 2016, <http://imrussia.org/en/society/528-the-choice-of-agents>

<sup>87</sup> Eleanor Bindman, “The state, civil society and social rights in contemporary Russia,” *East European Politics* 31:3 (2015): 342–360

<sup>88</sup> “Russia issues first warning under fresh ‘foreign agents’ bill – report,” *RT Question More*, December 13, 2012, accessed May 12, 2016, <https://www.rt.com/politics/russia-issues-first-foreign-951/>

organization. Golos, which stood for transparent elections and freedom of speech has been fined due to “receiving a grant from the Norwegian Helsinki Committee for work involving Russian election monitoring.” It suffered a major blow to the extent that it had to close temporarily as the fine left it without sufficient funds to continue. The Kostroma Center has been found guilty of organizing a roundtable on US-Russia relations, to which it invited a member from the US Embassy. Memorial has been found to be in receipt of foreign funding from the Europe-financed International Federation of Human Rights without registration, which it has used towards producing a report that “detailed police abuse of ethnic Roma individuals, migrants, and civil activists” - seen as a risk to the legitimacy of the police force. Lastly, the international film festival Side by Side, which is sponsored by the US-based organization Gay and Lesbian Alliance Against Defamation (GLAAD) published material titled "International LGBT Movement: from Local Practices to Global Politics"<sup>89</sup> - although the fine may have been the result of other legislation, namely the federal law criminalizing the distribution of "propaganda" among minors.

Another event which is often judged to be directly the result of the 2012 law has been observed in the Russian Ministry of Foreign Affairs' order to the prominent American government agency USAID, demanding it to cease any activity in Russia after October 1, 2012.<sup>90</sup> Whilst this falls out of the scope of the Foreign Agents Law, which in fact has come into force almost two months later from November 21, 2012 - the nature of this action by the state is deemed to originate from within the same motivations and is therefore considered to be related. The involvement of the Foreign Affairs Ministry with short time proximity to enforcement of the

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<sup>89</sup> Jacqueline Dufalla, “Non-Governmental Organizations in Russia,” *The School of Russian and Asian Studies* (2014), accessed May 5, 2016, [http://www.sras.org/ngo\\_russia\\_west\\_adaption](http://www.sras.org/ngo_russia_west_adaption)

<sup>90</sup> Chip Pitts and Anastasia Ovsyannikova, “Russia’s New Treason Statute, Anti-NGOS and Other Repressive Laws: “Sovereign Democracy” or Renewed Autocracy?” *Houston Journal of International Law* 37:1 (2014): 121-122



new law demonstrates that the introduction of the law had more to do with international politics than purely internal affairs of the country. Moreover, the Ministry had put forward justification that it was acting in the interest of the Russian people, because USAID had attempted to “affect political developments in Russia by giving grants and financial assistance to civil society organizations.” The prominent NGOs which were dependent on USAID money have been “Golos”, which had monitored and reported violations in the 2011 parliamentary and 2012 presidential elections, as well as the Moscow Helsinki Group (MHG).<sup>91</sup>

Pitts’ and Ovsyannikova’s (2014) investigations led to findings that in March 2013, officials from the Russian tax agency and general prosecutor’s office raided “223 NGOs in 47 Regions, including the Moscow offices of Human Rights Watch, Amnesty International, and Transparency International.”<sup>92</sup> However, examining of the underlying sources of information has led to discovery that while the agencies have been scrutinizing accounting data, they did not question why the NGOs that were in receipt of foreign cash had not registered as “foreign agents”, or pressure them to do so.<sup>93</sup> This seems to suggest that the law as it stands is unrealistic to enforce, possible to resist successfully, and thus could not have derailed NGOs from performing the essence of their duties. The counterargument is that the NGOs treading with uncertainty over weaker ground has left many NGOs vulnerable to scrutiny and shut-down at any time by the state, using failure to fully comply with the Foreign Agents Law as the basis for justification.

Contrary to some authors, Flikke (2015) asserts Putin’s stance toward the law has not changed, despite lobbying efforts from the NGOs and the PCHRCS. On the contrary, inspections and

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<sup>91</sup> Ibid., p.122

<sup>92</sup> Ibid., p.127

<sup>93</sup> “Pravozazhchitniki: Proveryayushchie Ne Trebuyut ot Nas Stat'tinoagentami” [Human Rights Defenders: The Authorities Do Not Require us to be Foreign Agents], *RIA NOVOSTI* (April 4, 2013), <http://ria.ru/society/20130404/931009554.html>.

scrutiny have intensified steadily, with growing coverage of NGOs, and even educational institutions.<sup>94</sup>

In their research, Pitts and Ovsyannikova (2014) criticize the law by claiming that it breaks a considerable number of human rights laws, “including the Universal Declaration of Human Rights (Articles 2, 19, and 20), the International Covenant on Civil and Political Rights (Articles 17, 19, 21, and 22), the European Convention on Human Rights (Articles 1, 8, 10, 11, and 18), the OECD Principles (Principle VII), as well as the Russian Constitution itself (Articles 17, 23, 29, 30, 31, 32, and 55)”. The case they make in their overall message that Russia is turning into a more autocratic regime is that government officials now have unlimited power to “obstruct registration applications with endless requests for additional information”, and permit them to “target human rights organizations, and further stigmatize and criminalize human rights activities in the country.”<sup>95</sup> Following on from their findings, the potential for the state department to lawfully bully NGOs using a weak pretext and unfounded accusations will distract them from day to day activities and greatly reduce their effectiveness.

Beznosova and McIntosh Sundstrom (2009) have made a suggestion that in contrast to Western donors, the Russian “state funding to civil society is an attempt to control their political agendas”<sup>96</sup>. Interestingly, the Russian NGO law came into existence specifically to protect the

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<sup>94</sup> Geir Flikke, “Resurgent authoritarianism: the case of Russia’s new NGO legislation,” *Post-Soviet Affairs* 32:2 (2016): 112, accessed May 1, 2016, <http://www.tandfonline.com/doi/pdf/10.1080/1060586X.2015.1034981>

<sup>95</sup> Chip Pitts and Anastasia Ovsyannikova, “Russia’s New Treason Statute, Anti-NGOS and Other Repressive Laws: “Sovereign Democracy” or Renewed Autocracy?” *Houston Journal of International Law* 37:1 (2014): 127, accessed May 4, 2016, <http://www.hjil.org/articles/hjil-37-1-pitts-ovsyannikova.pdf>

<sup>96</sup> Olga Beznosova and Lisa McIntosh Sundstrom, “Western Aid and the State-Society Balance in Novgorod and Khabarovsk,” *Problems of Post-Communism* 56:6 (2009): 21-35, access May 15, 2016, <http://www.tandfonline.com/doi/pdf/10.2753/PPC1075-8216560603>

nation against political agendas fuelled by foreign donations that are contrary to the national interest, or could in some way undermine the state.

Overview of statistical facts helps understand the impact of the changes to NGO law. According to the November-December 2006 survey, Russian nonprofit organizations (NPOs) that received grants from international organizations and international NPOs made up 6.2% and 5.5% respectively<sup>97</sup> (see Figure 6), which was still considerably behind those that received help from the state. It is noteworthy that in a similar survey in 2013, 29.9%<sup>98</sup> of nonprofit organizations (NPOs) were in receipt of foreign funding - a considerable increase from the 2006 figure despite the passing of the Foreign Agents Law which was widely expected to reduce the number of civic organizations dependent on income from organizations and individuals from abroad. There are two possible explanations for this. The first is that the Russian Public Chamber report may have focused their survey on socially oriented NGOs - which cannot be classed as “political” and therefore fall outside of the new law’s coverage. The second explanation is that Foreign Agents Law is so wide-ranging in coverage and contradictory in some instances - making it difficult to defend. This may point to its implementation having been “loud in the rhetoric” and in receipt of much media coverage, but fairly limited in actual practice.

Comparing **Figure 6** with **Figure 7**, there are signs that the reach of federal financing has significantly increased, with only 6.8% of NPOs claiming to be in receipt of federal aid in 2006 versus 36.1% in 2013. Similar observation can be made regarding local budget financing, with

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<sup>97</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2007, p.71 [https://www.oprf.ru/files/doklad\\_-engl-verstka.pdf](https://www.oprf.ru/files/doklad_-engl-verstka.pdf)

<sup>98</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2013, p.23

12.8% of NPOs supported in 2006 and a much healthier 52.6% in 2013. This is an indication that the government funding initiatives started during President Putin's second term in office have been effective in terms of their implementation.

The Foreign Agents Law was not the only that was introduced during Putin's third term in office. The NGO law has been shaken up in other ways as well. Even prior to the implementation of the Foreign Agents Law, several restrictive measures have been taken by the government. Notably, in June 2012 a 150-fold increase to the fine for violating rules on the participation and organization of public protests has been enacted for individuals. In the case of organizations, this fine has been increased even more steeply at 300-fold<sup>99</sup>. In addition, the Law on Amendments to the Criminal Code was adopted that expanded the definition of treason, which the ICNL evaluated to have been made "so vague as to enable the government to brand a critic as a traitor."<sup>100</sup> This way, the government seems to not only have established operational boundaries for the civil society, but also in some ways handicapped it through restricting the channels and criminalization of tools that it possesses in to accomplish its tasks.

As reported by the International Center for Not-for-Profit Law (ICNL), on "February 19, 2016, the new draft Federal Law No. 1000884-6 on Amendments to Item 6 of Article 2 of the Russian Federal Law on non-commercial Organizations (NCO) Law was presented to the State Duma". Although still pending as of May 2016, the significance of this draft lies in the concern that it contains a new definition of "political activity", which has made it even more straightforward for the government to characterize an organization's activity as "political", using a broad as well as vague description. This particular point is important because "conducting political

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<sup>99</sup> "NGO Law Monitor: Russia," The International Center for Not-for-Profit Law, accessed May 4, 2016, <http://www.icnl.org/research/monitor/russia.html#top>

<sup>100</sup> Ibid.,

activity” is one of the triggers in the 2012 law for an NCO to become characterized as carrying out the functions of a foreign agent.<sup>101</sup>

A number of further changes were passed to the Federal Law in October 2014 that have given the state taller walls against foreign influence. Regarding mass media, it became illegal for any foreign state, person or entity, or Russian person or entity that is classed to have “foreign participation” to found a media company. Furthermore, the federal law prevents these groups from acting as a media outlet or broadcasting; as well as “owning, managing, or controlling, directly or indirectly, more than 20% of the shares or capital of a media entity.”<sup>102</sup> Signaling tighter grip on information, this is a blow to a number of NGOs. Many human rights NGOs have complained in recent years that the coverage they get in mass media is very limited, which they blame on lack of press freedom. However, it must also be noted that Klitsounova’s (2008) research has found that “NGOs lack carefully designed policies of strategic interaction with the public and media.”<sup>103</sup>

On May 23, 2014 the state has gone into even greater lengths to curb foreign influence in the country. President Putin signed the Federal Law No. 129-FZ on Amendments to Certain Legislative Acts of the Russian Federation, which affects foreign and international NGOs and their partners in Russia commonly known as (“the Law on Undesirable Organizations”). According to the interpretation of ICNL of this law, “a foreign or international NGO can be declared undesirable by the Prosecutor General or the Prosecutor General’s deputies if they decide that the NGO is a threat to national security”, and once identified, the activities of this type of organizations in Russia are prohibited and “all persons participating are subject to

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<sup>101</sup> “NGO Law Monitor: Russia,” The International Center for Not-for-Profit Law, accessed May 4, 2016, <http://www.icnl.org/research/monitor/russia.html#top>

<sup>102</sup> Ibid.,

<sup>103</sup> Elena Klitsounova, “Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies,” *CEPS NO.287* (2008):4, accessed May 3, 2016

administrative and criminal penalties”.<sup>104</sup> The typically broad definition of the subjects to the law give the impression of a leak-proof clampdown on a wide range of foreign organizations; or as in the eyes of the government, the foreign “meddling” in Russian internal affairs.

Overall, many scholars including Crotty, Hall and Ljubownikow (2014) concluded that the NGO laws have led to reduced activity in civil society and curtailed its development; with the makeup of civil society largely consisting of state-financed groups<sup>105</sup>, with which the findings in this section are largely in agreement.

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<sup>104</sup>“NGO Law Monitor: Russia,” The International Center for Not-for-Profit Law, accessed May 4, 2016, <http://www.icnl.org/research/monitor/russia.html#top>

<sup>105</sup> Jo Crotty, Sarah Marie Hall and Sergej Ljubownikow, “Post-Soviet Civil Society Development in the Russian Federation: The Impact of the NGO Law,” *Europe-Asia Studies* 66, no.8 (October 2014): 1253, accessed May 1, 2016

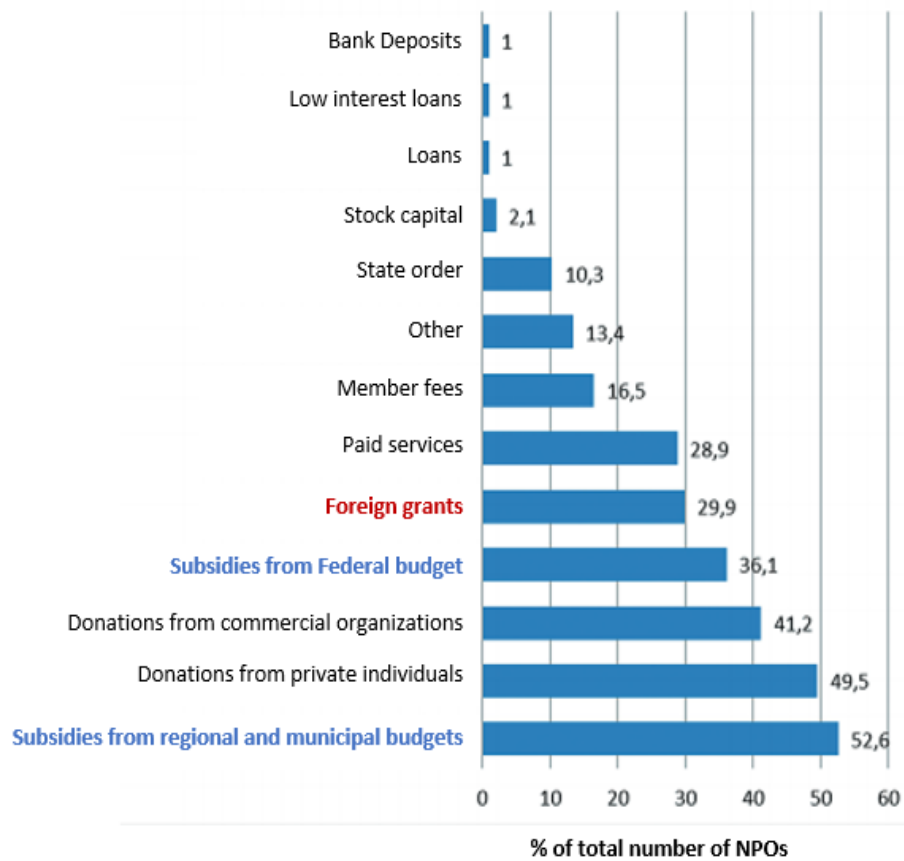
**Figure 6 - Sources of nonprofit organization financing in 2006, responses as % of total number of NPOs**



(state financing marked with red tick)

Source: The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2007, p.71 [https://www.oprf.ru/files/doklad\\_-engl-verstka.pdf](https://www.oprf.ru/files/doklad_-engl-verstka.pdf)

**Figure 7- Sources of nonprofit organization financing in 2013**



Source: The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2013, p.23



## Chapter 4 – Implications of Russia-West Relations for NGOs

Much of the Russian policy towards civil society and subsequent development of laws for its regulation has been shaped around its foreign relations - mainly with the Western states. This section examines the ways in which the international dynamic in a broad sense has impacted the governance of civil society in Russia.

### 4.1 Western Influencing Techniques

Prior to the NGO legislation from 2006 onwards, the Russian state was thoroughly inconvenienced by the constant undermining of the government by some NGOs, to which Russia as a country that hasn't yet embraced democracy did not accept and felt the need to deal with. For example, according to the CEPS document no. 287, one of EU's main human rights policy instruments in its external governance agenda is to create "an international and domestic climate of opinion critical of national human rights violations" through *shaming*.<sup>106</sup> The EU funding of Russian NGOs had therefore appeared to be requiring them to ruthlessly employ this instrument within the territory of the Russian Federation, thus influencing its public to be dissatisfied with the government, and with the potential to lead to popular uprisings.

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<sup>106</sup> Elena Klitsounova, "Promoting Human Rights in Russia by supporting NGOs: How to Improve EU Strategies," *CEPS* NO.287 (2008):12, accessed May 3, 2016, <https://www.ceps.eu/publications/promoting-human-rights-russia-supporting-ngos-how-improve-eu-strategies>.

In addition, the EU makes use of an economic instrument that causes a degree of friction with the Russian government. The “positive / negative conditionality” is a way in which the bloc controls the human rights-related behavior of another nation, through offering and withdrawing of assistance and potentially other economic cooperation.<sup>107</sup> Although for a different reason, this has been evidenced in the deployment of economic sanctions against Russia in 2014. The EU approach may be effective in theory for many developing country cases; but employing this tool on Russia, whose history as the lead nation of the Soviet Union and its former status as a superpower, may not be so wise in the end. The eagerness with which the Russian state and the public protect their legacy and what remains of it renders them firmly incompatible with and completely unreceptive of the principle of being educated and having its behaviour controlled through rewards and punishment of someone who poses as a grander state. The Russian Foreign Minister Sergey Lavrov’s article following the XXII Assembly of the Council on Foreign and Defense Policy in November 2014 gives a taster of the sentiment within the Russian government and public:

*“...No one in history has yet managed to subjugate Russia to its influence. This is not an assessment, but a statement of fact. Yet such an attempt has been made to quench the thirst for expanding the geopolitical space under Western control, out of a mercantile fear to lose the spoils of what they across the Atlantic had persuaded themselves was the victory in the Cold War.”* Sergey Lavrov (2012).<sup>108</sup>

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<sup>107</sup> Ibid., p.12

<sup>108</sup> Sergey Lavrov, “Russia’s Foreign Minister Sergey Lavrov: The Lesson of History. ‘No one has Yet Managed to Subjugate Russia’,” *Global Research* (2014), accessed May 6, 2016, <http://www.globalresearch.ca/russias-foreign-minister-sergey-lavrov-the-lessons-of-history-no-one-has-yet-managed-to-subjugate-russia/5419325>

The above statement demonstrates that in Russia, the value placed on sovereignty is very high in comparison to the EU, where there is a drive for common values, common approach, and blurring of the boundaries between member states. Heavy-handed diplomacy as well as undesirable Western influence through employment of economic and diplomatic tools with the aim of controlling various movements in the country can be seen by Russia as an attempt to subjugate the nation. Under the realist framework, where the state is the strongest actor, it can be evaluated that in order to protect its position of power and influence, the state is willing to take irrational action which harms internal civil society in order to fend off what appears to be a greater evil, thus making a sacrifice. This kind of response has been mildly on display during the introduction of the 2006 NGO Law, and more aggressively with the 2012 Foreign Agents Law. Equally, the government of Russia is very well aware that these kind of comments by high ranking officials resonate well with patriotic sentiment of the public, and will thus act to strengthen the public-state bond and make the country more immune, resolute and inflexible towards foreign suggestions and criticism, including from those within the domestic civil society.

## 4.2 Russian Suspicion of Foreign Organizations

Russia has long been suspicious regarding motivations of overseas actors with regards to its domestic affairs, and there is evidence has gone to great lengths to shield its civil society from undesirable effects. Undoubtedly, these concerns also contributing factors towards the shaping of its foreign relations with the West.

Foreign spying is legitimate concern that the Russian government have used to justify tougher regulations on NGOs receiving money from abroad. In 2006, a rock has been identified on the pavement of a Moscow street, containing electronic equipment, which has been proven to be

used by British diplomats to receive and transmit information.<sup>109</sup> Whilst the technology used was modern, the West spying on Russia and vice versa has been taking place for decades. What makes this case particularly relevant is that Russian security service, the FSB connected the event to allegations that British security services were making undercover payments to pro-democracy and human rights groups. To this, the British ambassador in Moscow responded by stating that all of their activities with the NGOs are on the public website.<sup>110</sup> Shortly afterwards, Putin brought in the Foreign Agents Law, and made the following statement:

*"We have seen attempts by the secret services to make use of NGOs. NGOs have been financed through secret service channels... This law has been adopted to stop foreign powers interfering in the internal affairs of the Russian Federation."* (Vladimir Putin, 2012)<sup>111</sup>

Whether or not the claims of the FSB regarding secret NGO funding were true and justified is difficult to assess given the information available. However, it is likely that the incident has been shelved in 2006 until the right moment in 2012 when it has re-emerged in order to deliver a well-timed convincing story to the Russian public that foreign-inspired NGOs are malicious organizations and cannot be in the interest of the Russian citizens. On the other hand, if there is a deep level of distrust between two states - as in the current climate, it is logically difficult to conceive how one state would have interest to finance a politically-active NGO in another without wanting to influence some political changes in its favor in one way or another; through gain of leverage, or creating ground for better cooperation in the long term, for example by

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<sup>109</sup> "UK spied on Russians with fake rock," *BBC NEWS*, January 19, 2012, accessed May 12, 2016, <http://www.bbc.com/news/world-europe-16614209>

<sup>110</sup> Ibid.,

<sup>111</sup> Ibid.,

changing the government. Wishing to change the government, induce democratization, and actually achieving this goal either covertly or militarily in another state is nothing new to Western politics, as has been done in Iran in the 1953 coup d'état, in Iraq following the war in 2003 and Libya in 2008, amongst other examples. The clever reminding of historical extracts is what makes it relatively easy for the Russian state to get away with drastic measures to the public that in fact have the side effect of curtailing Russian civic rights. On the other hand, if the threat painted by the Russian government did exist, Maxwell (2006) insists that the 2006 NGO Law was unnecessary in order to clear the unwanted organizations in Russia.<sup>112</sup>

Spying on another state is a case that usually points to the involvement of another state and the work of its intelligence agencies. However, it is not always the foreign state that initiates action, and there are ways in which the state can distance itself from such involvement. An article published by the Russian journal *Observer* offers an insight into the thoughts and suspicions likely to be shared amongst Russian policy-makers. Minasyan and Voskanyan (2013) - the former of which is a senior inspector in the CIS Anti-Terrorism Center, elaborate that in the middle of the 20th century CIA secretly carried out activities for creation of cells of political parties and organizations. Years later, the decision has been made that this type of activity will be given transparency and become public. As indirect confirmation of this theory, the authors rely on the words of the first president of the National Endowment for Democracy (NED) Allen Weinstein, which they claim are concerning NATO tactics of penetration into zones of its interest: "A lot of what we do today was done covertly 25 years ago by the CIA".<sup>113</sup> It then

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<sup>112</sup> Michael P. Maxwell, "NGOs in Russia: Is the Recent Russian NGO Legislation the End of Civil Society in Russia?" *Tulane Journal of International and Comparative Law* 15:1 (Winter 2006):262, accessed May 17, 2016,

<http://www.heinonline.org/HOL/Page?handle=hein.journals/tulic115&div=12&?&collection=journals>

<sup>113</sup> G. Minasyan and A. Voskanyan, "Zarubezhnie NPO - Mehanizm Vliyaniya na Vnutrennyuyu Politiku v SNG," [Foreign NGOs - the Mechanism of Influence over CIS Internal Politics], *Obozrevatel – Observer*, № 3 (278), (2013):8, accessed May 17, 2016, [http://www.observer.materik.ru/observer/N3\\_2013/006\\_019.pdf](http://www.observer.materik.ru/observer/N3_2013/006_019.pdf)

becomes the Russian interest to not only actively protect itself by devoting efforts to uncover various malicious plots, but also employ passive protection in form of heavy-handed domestic NGO activity regulation as it has already done.

Furthermore, the authors convey the process via which civil society can be stimulated by international actors in order to organize revolutions. At the initial stage in the country, where change of government is supposed, a pretext symbolizing goodwill (such as democratization of society) is used in order to set up the network infrastructure for NGOs, each of which acts in strict accord with one of the four directions. The authors then detail those directions as, first, work with opposition parties and youth organizations. Second, work with the representatives of local self-government bodies, aimed to help the regional development with regards to self-sufficiency, but in practice easing their controllability from Moscow. Third, development of alternative mass media that is under the control of NGOs. And finally the fourth direction is creation of new and strengthening of existing civic organizations, and through them the realization of nonviolent methods of battle with the state.<sup>114</sup> The significance of this is that none of the four directions under which NGOs are supposedly mobilized towards change of regime appear as a great threat, and would be considered “business-as-usual” in a democratic society. They are hard to justify building preventative mechanisms against. However, in the Russian or another authoritarian context, the vulnerability of the state is clear and paranoia-driven unpopular solutions cannot be excluded.

Lebedeva (2013) gives an example where direct state involvement is almost entirely lacking, showing that it is no longer essential in order to mobilize large-scale political changes. In 2001

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<sup>114</sup> Ibid.,

the Goldman Sachs analyst John O'Neill has effectively created the group of the countries with rapidly developing economies – Brazil, Russia, China and India (BRIC). At the time, these countries then didn't see themselves as a group and only began engaging in the coordination of activity following the association. The group began to officialize its processes by holding regular meetings, as well as expanded by inviting South Africa. Whilst it is difficult to predict in which direction BRICS will go in the future, and whether its relevance will remain - but the important takeaway point that the author emphasizes is that a non-state actor has been able to initiate an international political process through the use of its influence. Moreover, the commercial organization did not so much use economic resource, but has in fact made effective use of its "analytical-informational" capability.<sup>115</sup> Although in this particular case no harm was done to Russia, if anything in some way it asserted the country's position of importance on the world stage; but the ability of an organization, commercial or non-commercial to assume the role of a political actor and catalyze transnational movement is the type of concern that motivated the state to build precautions.

### 4.3 The Ukrainian Crisis and NGO Law

The ongoing Ukrainian crisis - which began in November 2013 as an upheaval over government and "Euromaidan" demonstrations,<sup>116</sup> provides a rare glimpse into how civil

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<sup>115</sup> Marina Lebedeva, "Aktori Sovremennoy Mirovoy Politiki: Trendi Razvitiya" [Actors of Modern World Politics: Development Trends] *Vestnik of MGIMO University* 1:28 (2013): 40, accessed May 17, 2016, <http://cyberleninka.ru/article/n/aktory-sovremennoy-mirovoy-politiki-trendy-razvitiya>

<sup>116</sup> Iryna Stelmakh and Tom Balmforth, "Ukraine's Maidan protest – one year on," *The Guardian*, November 21, 2014, accessed May 17, 2016, <http://www.theguardian.com/world/2014/nov/21/-sp-ukraine-maidan-protest-kiev>

society has been used by Russia in order to assist the management of its foreign policy throughout the complex geopolitical event.

On March 7, 2014 following the results of public hearings about a situation in Ukraine, the statement of the Public Chamber of the Russian Federation made an appeal to all civic, charitable and volunteer organizations, businessmen, state institutions to unite efforts on rendering a wide range of humanitarian aid to victims of crisis in Ukraine. One of the important measures has been the creation of the headquarters within the Public Chamber for coordination of assistance to residents of Ukraine who have been adversely affected during the crisis, together with a web portal and telephone hotline.<sup>117</sup>

During 2014, the Public Chamber claims that the headquarters have processed hundreds of inquiries, thousands of calls and applications from the Russian NGOs to express their readiness to help in the humanitarian, legal and psychological dimensions to residents of Ukraine. The civil society organizations which have joined efforts with the headquarters carried out monitoring of human rights observance in Ukraine. As a result of this initiative, more than 150 cases of legal action have been filed in the Ukrainian courts and dozens of claims have been filed in the European Court of Human Rights.<sup>118</sup> What is significant about this report is that (a) The civil society action has been organized by the state, and (b) it does not mention where the assistance was focused, which is likely to have been primarily to the pro-Russian Donbass region in Eastern Ukraine. The State-NGO relationship where the former is by far the most

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<sup>117</sup> The Public Chamber of the Russian Federation, *Report on the State of Civil Society in the Russian Federation*, 2014, p.8

<sup>118</sup> *Ibid.*, p.9



dominant actor has enabled the government to gain assistance from domestic civil society in a specified location abroad. Moreover, the activities have been managed in a manner that conforms fully with its interest.

In a “hybrid” regime, civil society and the state’s foreign policy have a two-way relationship that can be likened to a parent and child. The latter helps create, shape and guide the former, and the former then assists the maintenance of the latter. Following the annexation of Crimea, the international community had expressed concerns about its ethnic resident minority - the Crimean Tatars, whose rights were feared to not be adequately protected by Russia.<sup>119</sup> In addition, international donor support for NGOs operating in Crimea has been very difficult as it now comes under Russian jurisdiction, which makes it equally subject to the 2012 law on foreign agents.<sup>120</sup> In effect, Russian NGO legislation can be said to have assisted the swift and largely non-violent takeover of Crimea, minimizing the potential hurdles that foreign-funded organizations could have placed in the way in the period of occupation.

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<sup>119</sup> “UN Calls On Russia To Respect Crimean Tatar Rights On Key Anniversary,” *Radio Free Europe Radio Liberty*, June 2, 2016, accessed May 18, 2016, <http://www.rferl.org/content/un-calls-on-russia-respect-crimean-tatar-rights-anniversary-stalin-deportations/27742101.html>

<sup>120</sup> Mridula Ghosh, “In Search of Sustainability: Civil Society in Ukraine,” *Friedrich Ebert Stiftung* (2014):5, accessed May 19, 2016, <http://library.fes.de/pdf-files/id-moe/10862.pdf>

## Discussion and Recommendations

The success of a modern day NGO to a great deal depends on how effectively it can interact with actors internally and externally, and rally forces from abroad. In his book “Creating a Better World: Interpreting Global Civil Society”, Paul Nelson (2004) explains how NGOs make use of the “boomerang effect,” where “domestic political actors in one country, finding their own government resistant to their agenda, ally with foreign or international NGOs, which in turn mobilize their governments or intergovernmental authorities to put pressure on the offending government”. He extends this to how NGOs can successfully apply this principle to get leverage over the World Bank as well as over the Bank’s member governments.<sup>121</sup> Putting this into the context of Russia - in the current times it is pre-occupied with managing itself under strong international pressure over its international policy, in the form of criticism and some actions that it considers hostile. As part of this “management of pressure”, the Foreign Agents Law can be treated as one product of this. Currently, the *boomerang effect* is failing due to Russian NGO laws. However, until Russian relations with the West normalize to a point that every Western action doesn’t cause a knee-jerk reaction from the Russian government, civil society in Russia will not be able to make optimal use of transnational forces.

This can only be achieved under the condition if Russia and the West can approach the table as equal partners at a government level, going over concerns in an honest and professional manner without attempting to outmaneuver one another. In this post-Ukrainian crisis period, Russia can be described as having entered survival mode, both economically and politically.

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<sup>121</sup> Paul Nelson, “New Agendas and New Patterns of International NGO Political Action,” in *Creating a Better World: Interpreting Global Civil Society*, ed. Rupert Taylor (Kumarian, 2004), 118

As evidenced in this research, the protective lock-down in the last few years has so far brought about negative consequences for its civil society, excluding improvements in domestic funding for SO NGOs. The current Western policies that are aimed to penalize the Russian state whilst at the same time provide grants to its civil society are ineffective for two reasons. Firstly, it is bypassing the most important actor - the state. Since Russia functions on statist principles, power is highly centralized and without the state's engagement it is either difficult or counterproductive to achieve change. Continued undermining of the Russian government and sympathy with NGOs that have come under fire leaves the foreign actors locked in a circle, where no breakthrough is possible.

Secondly, Russia historically demonstrated its resilience through absorbing tremendous pain for various causes, be it economical, human or otherwise<sup>122</sup>. Therefore its government will not hesitate to take bold and swift actions which result in costly domestic sacrifices - in this case clampdown on foreign cash inflows into its NGOs. Failure to appreciate this will lead to prolonged frustration on both sides, with many opportunities to cooperate in fields including the development of civil society - wasted. Therefore policies formed in a way that give incentives for the Russian state to be more receptive to Western ideas and ideals will be far more productive, rather than resorting to messages signifying punishment and condemnation that dominates the Western media coverage and political rhetoric against Russia in the present day. Whether they come via international NGOs, intergovernmental organizations or other channels, the state must first be convinced that there is no breach of Russian interests and that its concerns are listened to as well.

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<sup>122</sup> Pyotr Romanov, "The West Doesn't Understand Russians," *The Moscow Times*, December 7, 2014, accessed May 20, 2016, <http://www.themoscowtimes.com/article.php?id=512677>

This poses another problem for Western actors that wish to see changes in Russia through civil society development and action. Some ideas will not appeal to the state. For example, Russia has already lost trust in Western efforts for democratization, with suspicion arising based on other countries' experience where undercover agendas have been found behind what appeared to be goodwill.<sup>123</sup> If foreign actors are serious about making improvements through Russian NGOs, they can make their re-entry through supporting NGOs that deliver social benefits to society, and therefore re-establish trust with Russian state. This move - although appears to be playing into Putin's hands, might be the gesture that will bring about the liberalizing reforms to NGO laws in Russia in the medium to long term. If this does not fit in with the donors' policies, then it is better to stop funding in Russia temporarily than to continue agitating the state by funding precise groups that the authorities are worked up to do battle with. In fact, if foreign actors continue to defy and seek ways around the NGO laws to continue foreign sponsorship, the risk is that this is more likely to play into the authorities' hands in their information campaign aimed at convincing the public about conspiracy-like foreign agendas in the Russian Federation.

The recommendation for politically involved NGOs is to not register as Foreign Agents, and instead forfeit overseas-sourced income. The current paranoia engulfing the Russian state regarding undesirable foreign influences means that it is not likely to treat such organizations in a reasonable manner at this stage. The almost unlimited powers given to authorities to enforce the 2012 law mean that its ignorance cannot be a long-term solution. On the other hand,

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<sup>123</sup> Charles Maynes, "Russia Names US NGO 'Undesirable'," *Voice of America*, July 28, 2015, accessed May 21, 2016, <http://www.voanews.com/content/rferl-russia-names-us-ngo-undesirable-/2881491.html>

registering as a Foreign Agent is likely to turn the very public which the NGO is serving away from trusting it, and any benefit gained through funds received from abroad will be offset by the state's stigmatization of the organization - reinforced with negative media coverage. It is understandable that for these organizations, the climate in Russia is particularly tricky as accessing state money is difficult too; with their services are not being socially oriented. But this is not to say that political NGOs should not operate at all. It is suggested that they generate funds through other means, such as offering paid services and keep this sector of NGO afloat until future reform. In the meantime, it is in the interest of the majority of civil society to campaign for the narrowing of the NGO laws' coverage through clearer specification of the law. Whilst pushing back against the law completely is unlikely to yield any progress with the state, asking to refine it has far better chances. In its current term, the laws are expressed loosely in their broadest senses and without detailed definitions of what is acceptable and what is not. Therefore, it is easy to criminalize much of the NGO activity if it comes under scrutiny, as the keyword "political" is a term with a wide coverage.

## Conclusion

Overall, the research concludes that there is an inseparable relationship between NGO laws in Russia, and the state's relationship with foreign governments that hold a stake in its NGOs. In addition, it is in agreement with most scholars that on the whole, the tightening of NGO legislation has had a detrimental effect on civil society in Russia. The implications of this are narrowing of diversity within civil society, loss of creativity and motivation brought about by fear of punishment. The rigid stance of the state on these matters destroys any chances of democratization for foreseeable future, whilst suppressing dynamism in society. The winners of this policy are socially oriented NGOs that have gained access to billions of roubles in state grants, however their level of cooperation with the government leaves their independence under question. It may be that the Russian public is receiving more or less what it expects from the state and the SO NGOs that help to deliver these services, but the flip side of the coin is that Russia has not got the economic structure and power the Soviet Union, and continued delivery of the quantity and quality of welfare and social services is unlikely to be sustainable.

This contrast between what the state emphasizes its roles and responsibilities to be in society, and what is actually achievable brings under question the sustainability of public perception of state responsibilities as it stands - pointing towards potential change in landscape in favour of NGOs. This change can only happen if the Russian state becomes comfortable enough with foreign actors, and thus the conditions become right for it to give up more power to civil society voluntarily in order to offload some of its comprehensive burdens. When or how this takes place is difficult to predict. However, hostility towards Russia in form of attempts for isolation and aggressive condemnation of its policies can never be the road to stronger, independent civil society in Russia. On the contrary, dialogue, inclusion, incentives to cooperate with the state

on the basis of equal partnership are the policies that are likely to pay off far greater than any financing programs for its NGOs could.

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