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Hands Off My Regime! Governments' Restrictions on Foreign Aid to Non-Governmental Organizations in Poor and Middle-Income Countries

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Summary. — Many resource-strapped developing country governments seek international aid, but when that assistance is channeled through domestic civil society, it can threaten their political control. As a result, in the last two decades, 39 of the world's 153 low- and middle-income countries have adopted laws restricting the inflow of foreign aid to domestically operating nongovernmental organizations (NGOs). Governments recognize that such laws harm their international reputations for supporting democracy and may invite donor punishment in terms of aid reductions. Yet, they perceive foreign aid to NGOs as supporting political opponents and threatening their grip on power. In the aftermath of competitive electoral victories, governments often take new legal steps to limit these groups' funding. We test this argument on an original dataset of laws detailing the regulation of foreign aid inflows to domestically operating NGOs in 153 low- and middle-income countries for the period 1993–2012. Using an event history approach, we find that foreign aid flows are associated with an increased risk of restrictive law adoption; a log unit increase in foreign aid raises the probability of adoption by 6.7%. This risk is exacerbated after the holding of competitive elections: the interaction of foreign aid and competitive elections increases the probability of adoption by 11%.

Key words — NGOs, civil society, regulations, foreign funding, elections, development aid

1. INTRODUCTION

Non-governmental organizations (NGOs), including non-profits and advocacy organizations, are important policy actors in the developing world, and often receive substantial funds from overseas sources. During the early 1990s, many donors viewed NGOs as working together with developing country governments to deliver essential public services, build a vibrant civil society, and enhance democracy. Governments, facing multiple demands on their resources, have appreciated this external infusion of funds. Indeed, by some accounts, foreign aid flows from donor countries have amounted to an average of 10% of the GDP of aid-receiving countries between the mid-1990s and 2012. However, in the last two decades, 39 of the world's 153 low- and middle-income countries [1] risked their international reputations as well as potential reductions in foreign aid by restricting overseas financing to domestically operating non-governmental organizations (NGOs). [2] Such laws reduce governments' access to scarce resources, and often trigger international condemnation. Why, then, would governments take such risks? Aided by a new dataset on foreign funding restrictions, we provide a political explanation for this paradox.

NGOs are formal organizations outside the government and for-profit sectors, advocating specific policies and/or providing services (Johnson & Prakash, 2007; Lewis & Wallace, 2000; Vakil, 1997). International NGOs (INGOs) operate in more than one country, and often have headquarters in the global North; domestic NGOs (DNGOs) operate in, and are often founded by, the citizens of a single country. Our analyses pertain to the new laws that bear on locally operating advocacy and service delivery NGOs of both the international and domestic variant. We focus here on NGOs operating in low- and middle-income countries, where resources are particularly scarce, and where foreign assistance is particularly important. It is here that the paradox is most apparent, as the governments in these countries should be particularly eager for foreign assistance, even when channeled through locally operating NGOs.

Since the fall of the Berlin Wall, Western states and multilateral donors have heavily funded NGOs and other civil society actors in the global South and former Communist countries, seeking to spread liberal norms, encourage democratization, and foster development (Barnett, 2011; Dietrich & Wright, 2015). This aid is part of a broader package of international development assistance provided by richer to poorer countries. Although most of this aid may be channeled through governments, a substantial percentage also flows through locally operating NGOs. As a result, the number of foreign-supported NGOs active in the developing world, including both INGOs and DNGOs, has grown exponentially (Carothers & Ottaway, 2005; Henderson, 2003; Mendelson, 2001; Murdie, 2014; Reimann, 2006). Many donors viewed this support as a "magic bullet" (Edwards & Hulme, 1996) capable of solving all manner of problems unaddressed by state and market. Western donors realized NGOs would find it difficult to raise resources internally within resource-poor countries, and viewed international financial support as an appropriate way to establish and strengthen the domestic NGO sector, and to support the on-the-ground work of international NGOs. Many governments, similarly, regarded this aid to NGOs operating

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on their territory as a welcome (if indirect) addition to their ongoing service-provision efforts, and as a budgetary "force multiplier" in budget-constrained environments.

Yet, beginning in the mid-1990s, governments in poor and middle-income countries began passing laws restricting the ability of INGOs and DNGOs to access and use foreign aid while operating on their sovereign territory. In recent years this trend has accelerated, drawing substantial scholarly and policy attention (Carothers & Brechenmacher, 2014; Christensen & Weinstein, 2013; Dupuy, Ron, & Prakash, 2015; Howell *et al.*, 2012; Kiai, 2013; Mendelson, 2015; Rutzen, 2015; Tiwana & Belay, 2010). These restrictions are puzzling; restrictive governments are risking their international reputations by provoking local and international NGO protest, and are voluntarily foregoing valuable resources. To systematically explore this paradox, we introduce a novel dataset detailing laws restricting foreign aid to locally operating INGOs and DNGOs, from 1993 to 2012.

Our enquiry is anchored in four premises: (1) foreign aid is an important source of funding for domestically operating NGOs;[3] (2) although governments generally regard such aid as useful, there are political conditions under which they are willing to forego international assistance to civil society; (3) government regulations shape the behavior of domestically operating NGOs (Bloodgood, Tremblay-Boire, & Prakash, 2014; Stroup, 2012); and (4) and states worry about erosion of their sovereignty and seek to regulate transnational influences on domestic politics.

Our statistical model includes a number of controls, including regime type, per capita income, and embeddedness in international NGO networks. Using an event history approach, we find that foreign aid inflows are associated with an increased "risk" of restrictive law adoption in low- and middle-income countries, and that a log unit increase in foreign aid raises the probability of restrictive law adoption by 6.7%. This risk is exacerbated after nationally competitive legislative or executive elections, when the interaction of foreign aid and competitive elections increases the probability of restrictive law adoption by 11%. Our results are robust to a range of alternative model specifications, and we interpret this finding as evidence that governments will forego valuable international assistance, and risk their international reputations when aid to NGOs has recently challenged their political survival, and when their fresh electoral victory has given them a window of opportunity to curb political dissent.

We focus on the *onset* of restrictive laws, rather than *variations* in these laws' types—an issue of regulatory "design" that we explore elsewhere—or on the enforcement of these laws, a topic we scrutinize in ongoing work. We also do not focus on informal restrictions on NGO operations, another issue deserving of systematic research. Restrictive legal onset deserves concentrated and focused scrutiny, we believe, as it is a remarkable, formal rupture in the global spread of NGO-enabling legal environments charted by international relations scholars (Reimann, 2006). The liberal norms of the Western-backed "world polity" have been spreading rapidly for decades (Meyer, Boli, Thomas, & Ramirez, 1997), and foreign aid to locally operating NGOs is central to this process. Formal restrictions on this process, we believe, are a dramatic break in this process of global legal, administrative and normative diffusion. Governments prioritize political survival over aid, international reputations, and norm compliance, and are willing to buck world polity legitimation pressures when they perceive serious threats to their rule. By bringing governments back into the study of NGOs, we remind development scholars of the intrinsically political nature of international aid and civil society.

The rest of this paper is organized as follows: First, we describe the global pushback against foreign aid to domestically operating NGOs, discussing specific examples and the characteristics of restricting states. Then, we explore the theoretical reasons for this phenomenon, focusing on enabling conditions and on precipitating and exacerbating causes. We proceed to discuss our unique dataset, develop hypotheses, and present our statistical model and results. Finally, we suggest new areas for investigation, and explore our findings' theoretical and empirical implications for the study of development.

2. THE PUSHBACK AGAINST FOREIGN-FUNDED NGOS

During 1993–2012, over a quarter of the world's low- and middle-income countries adopted newly restrictive laws regulating the flow of foreign funds to locally operating NGOs. These laws do one or more of the following: limit NGOs' ability to *receive* foreign money; specify the *amounts* of foreign money NGOs may legally receive; determine the *mechanisms* through which NGOs may access foreign aid; prescribe if, and how, NGOs can *use* foreign funds, including the issues on which they can work; and specify foreign aid *reporting and tax requirements*. With very few exceptions, these laws do not impose restrictions on specific categories of NGOs, such as human rights organizations or health groups. Furthermore, these restrictive laws do not distinguish between *types* of foreign funding, including money from private foundations, such as the Ford Foundation, or money from bilateral or multilateral aid agencies, such as the United States (U.S.) government or United Nations (U.N.).

A few examples illustrate the range of restrictions that have been adopted. In Equatorial Guinea and Angola, government authorization is required for locally operating NGOs to receive funding from international sources, while Azerbaijan and Belarus require organizations to notify government regarding receipt of internationally-sourced funds. Vietnam forbids the receipt of international funds that will negatively affect political order. Some governments set specific limits on the amounts of international financing organizations can receive; for instance, the Algerian government has discretionary power to set a cap on how much foreign money NGOs can legally receive, while Ethiopia has determined that human rights organizations cannot receive more than 10% foreign funding. In terms of restrictions on the use of foreign funding, Zimbabwe prohibits such funding from being use on voter education, while Rwanda allows only 20% of funds to be used on administrative expenses. Several governments require regular and extensive reporting on the receipt and use of foreign funds, such as Indonesia, Burundi, and India.

Figure 1 depicts the upward trend in the adoption of restrictive NGO finance laws, documenting their global cumulative prevalence, and Figure 2 shows their geographic spread.

Consider these examples. In 2005, Prime Minister Meles Zenawi's government permitted Ethiopian opposition parties, for the first time, to fully campaign in national parliamentary elections. Contrary to the government's expectations, however, "the opposition swept seats in Addis Ababa and finished strongly in other urban areas" (Lacey, 2005). Fearful for its political survival, the government claimed its rivals had won only 176 of 546 parliamentary seats—far fewer than likely—and passed new rules designed to bolster the governing party's legislative powers. Opposition groups, including the Coalition of Unity and Development, responded with furious demonstrations, which government forces harshly suppressed (Human