

Partners under pressure

The future of civil society in Dutch human rights policy

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1. Executive summary

The Dutch international human rights policy of cabinet Rutte II stressed the importance of cooperating with civil society actors, which includes many human rights defenders. These actors were regarded as ‘change agents’ of a transitional process towards respect for human rights, democracy and the rule of law. However, the space for civil society actors to operate in has shrunk in recent years. We conducted three country studies of China, Russia and Saudi Arabia in order to analyse what the implications are of this development for the inclusion of civil society actors within the Dutch human rights policy in authoritarian states.

We have found that the space for independent and critical civil society actors has decreased. This is especially driven by new legislation that has been implemented in each of the three countries. While civil society actors who supplement the state, for example by delivering social services, are allowed to operate, those who are engaged in politically sensitive issues are restricted. As a result, many civil society actors advocating human rights face increasing scrutiny from the state, can receive less funds from overseas and have been made more explicitly illegal. This has made it more difficult for these actors to fulfil their role as change agents for human rights and democracy.

Recent civil society developments in China, Russia and Saudi Arabia indicate that cabinet Rutte III should re-evaluate the role of civil society actors in the Dutch human rights policy in authoritarian states and make a choice. The government should either simply reduce its expectations of civil society actors in strengthening human rights and democracy, or, alternatively, help such actors to strengthen their position as leaders of broader social change. The latter choice requires a more country specific approach. Instead of selecting priority areas and applying methods that the Dutch public or political parties find important, it would be more suitable to respond to local needs, viewing civil society less as a means to realise specific human rights goals and more as an end in itself. The implications of cooperating with partners whose work has been made illegal under the new legislation should thereby be carefully considered.

2. Introduction

The previous Dutch cabinet Rutte II (2012-2017) reserved a special role for civil society in its international human rights policy, recognising that states were no longer the only key players in today's multipolar world and that cooperation with non-state actors was therefore an important method to improve human rights conditions worldwide (Dutch MFA 2013; Dutch MFA 2017a, 7). Many of these non-state actors operate within civil society, which can be understood as the sphere of uncoerced human association between the individual and the state, in which people undertake collective action for normative and substantive purposes, relatively independent of government and the market (Edwards 2011, 3-4). It should therefore come as no surprise that the 2013 Dutch human rights policy stated that there was close cooperation with civil society within the Dutch human rights policy (Dutch MFA 2013, 17).

The Dutch government under Rutte II believed that real progress could only be realised when pressure was applied from within society. Therefore, the government aimed to support human rights defenders, many of whom are active in civil society, such as NGOs and bloggers, because it considered these to be 'change agents' who could help society to go through a transitional process. These human rights defenders, who are defined as "individuals, groups and civil society institutions that are engaged in promoting and protecting universally recognised human rights and fundamental freedoms", therefore deserved the support of the Netherlands in their efforts to improve human rights in their countries. According to the previous Dutch cabinet, without such efforts, there could be no democracy or rule of law (Dutch MFA 2013, 8 and 24).

However, while cooperation with civil society actors has been an important aspect of the Dutch international human rights policy over recent years, many observers, including the Dutch government itself, have noted that the space for civil society has decreased (Dutch MFA 2017a, 9). It has been argued that governments around the world are adopting laws and policies that make it more difficult for civil society actors who are critical of government policies, protest against social injustice and call for democracy and human rights (Unmüßig 2016, p.3). According to a recent report by Amnesty International, human rights defenders around the world are facing increasing pressure at an alarming scale. The measures used to silence them range from personal attacks to the implementation of legislation that criminalises human rights-related activities or requires stricter registration of NGOs (Amnesty International 2017, 5-7).

On the one hand, this growing pressure on civil society highlights the importance of the Dutch government providing support and protection to civil society actors worldwide. On the other hand, it also indicates that the space for many human rights defenders has been reduced and that the circumstances under which they are to fulfil their roles as 'change agents' have been transforming, creating new opportunities and difficulties. Therefore, the recently installed cabinet Rutte III should evaluate how it can best approach and build upon its predecessor's strategy of including civil society actors within the Dutch human rights policy. The coalition agreement of the new cabinet does not reflect this, as it implies no serious adjustments to the Dutch human rights policy (Regeerakkoord 2017, 47 and 49). It is thus relevant and timely to investigate the implications that the observed shrinking of space for civil society might have on the Dutch approach to improving and protecting human rights,

which emphasizes the inclusion of civil society actors. This report therefore aims to answer the following question: *What are the implications of recent developments in the civil societies of relatively undemocratic political systems for the Dutch approach of including civil society actors within its international human rights policy?*

To answer this question, three country studies have been undertaken. These studies looked at China, Russia and Saudi Arabia to research the implications of recent developments in each nation's civil society for the Dutch human rights policy regarding that country. These countries have been chosen for several reasons. First of all, they are relevant because new legislation regarding civil society has been introduced in each country in recent years, implying changing circumstances for many human rights defenders. Secondly, all three countries are influential players, both regionally and on the global stage, and developments in their civil societies therefore have the potential to generate an international impact. China and Russia in particular could be seen as authoritarian trendsetters, exporting their political models or legal approaches to civil society (Glaser and Funaiole 2017; Ziegler 2016, 556). Finally, studying these three countries with their vastly different cultures, political systems and spheres of influence enhances the likelihood of drawing more general conclusions regarding the inclusion of civil society actors within the Dutch human rights policy in authoritarian states. Each country study relies on a combination of academic literature and interviews conducted by the researchers, supplemented by policy documents and reports from the media and NGOs. The structure, definitions and methods applied within the country studies have been carefully set out and discussed in the section 'Methodology and structure of the country studies' below.

The most important findings of the three country studies have been brought together in this overarching report. What follows is a discussion of broader conclusions that can be drawn based on these findings. Where possible, recommendations are made to the current cabinet on how to best approach the inclusion of civil society actors within the Dutch international human rights policy. This report ends with a conclusion in which the research question described above will be answered. Following this introduction, the report will go on to discuss in more detail the Dutch human rights policy in recent years, focusing on the inclusion of civil society actors within this policy. Much of the concrete information discussed in the general findings is based on the individual country studies that can be found in the appendix to this report.

3. The Dutch approach to civil society and human rights under Rutte II

Before being able to analyse the implications of recent developments in civil society for the Dutch human rights policy, it is first important to understand this policy more thoroughly. Cabinet Rutte II considered human rights the cornerstone of its foreign policy. Defending these rights was seen as a moral and legal obligation, which ultimately would also benefit the Netherlands, since respect for human rights leads to a more stable and prosperous world. In its 2013 human rights policy document, the cabinet observed that there was little reason for optimism regarding human rights in many parts of the world and therefore considered its efforts to promote respect for these rights to be much needed (Dutch MFA 2013, 4-8). It also announced that the Dutch human rights policy would focus on three priority areas: LGBT rights, women's rights and the protection of human rights defenders. Besides these, there were actually other themes which would also specifically receive attention: grave human rights violations, freedom of expression and internet freedom, freedom of religion and belief, business and human rights, and human rights in connection with development. This last theme has recently been replaced by 'accountability/fight against impunity' (Dutch MFA 2013; Dutch MFA 2017a).

In order to realise improvements in these areas, cabinet Rutte II aimed to work together with partners other than only foreign governments, including civil society actors. There have been several strategies through which the Dutch government has aimed to include such actors in its human rights policy, both bilaterally as well as within the frameworks of the European Union (EU) and the United Nations (UN). First of all, the Dutch government funds projects of civil society organisations that promote human rights, with the Human Rights Fund being the most prominent instrument in this regard. The grants that this fund allocates are restricted to the Dutch priority areas, with women's rights being removed from these within the 2017-2020 grants policy framework. This framework also states that the grants are intended for projects run by civil society organisations with legal personality which are not established by or linked to a government body (Dutch MFA 2017b). The funds are mostly distributed to specific countries through the respective Dutch Embassies in these different countries, which can decide what activities are likely to be effective. However, there are also funds available for regional programmes. In 2016, €29.5 million of the total amount of €37.8 million was distributed through the embassies, funding a total of 449 projects (Dutch MFA 2017a, 37).

Apart from funding the projects being carried out by civil society actors, the Dutch government also includes such actors into its human rights policy in other ways. For example, the Dutch Human Rights Ambassador engages in discussions with civil society actors as well as with government representatives during his worldwide visits. Dutch embassies also play an important role, maintaining ties with human rights defenders and undertaking action in cooperation with civil society actors, for example during Human Rights Day (Dutch MFA 2013, 47-48). Within multilateral frameworks, the Dutch government has pushed for more inclusion of civil society within the human rights dialogues that the EU undertakes with several countries and has advocated for NGOs to have greater input regarding human rights issues in the UN. Furthermore, the Dutch government has asked for the establishment of contact points for human rights defenders within EU delegations and for the organisation of

annual meetings between human rights defenders and representatives of the EU and its member states (Dutch MFA 2013, 24-26, 41). To protect human rights defenders, the Dutch government also aims to improve their visibility and offers them a refuge through the Shelter City program. Another form of cooperation with civil society actors is the annual Human Rights Award, which grants a human rights defender a sum of money to undertake human rights activities (Dutch MFA 2013, 24-26).

The policies of the European Union are also relevant, since the Dutch efforts to promote human rights largely aim to support those of the EU (Dutch MFA 2013, 46). In its Action Plan on Human Rights and Democracy for the period 2015-2019, the EU emphasises the importance of cooperating with civil society actors in its attempts to improve human rights and promote democracy worldwide. It states that “a vigorous and independent civil society is essential to the functioning of democracy and the implementation of human rights” (EU 2015, 12). Apart from cooperating with civil society actors in addressing specific human rights issues, the EU also aims to invigorate civil society, stepping up its efforts to promote an environment in which civil society can flourish. This is realised by undertaking regular dialogues to engage with civil society actors, providing financial support to civil society actors under the European Instrument for Democracy and Human Rights, and protecting the safety of human rights defenders (Amnesty International 2016).

4. General findings

Civil society under pressure

The studies of China, Saudi Arabia and Russia show that in recent years these countries have seen a shrinking of space for critical and independent civil society actors to oppose authoritarian governments and to call for democracy or human rights. The developments in these countries are part of a global ‘illiberal wave’ of new laws and policies that make the work of civil society actors more difficult (Unmüßig 2016, 3). In all three countries, repressive civil society laws have been implemented in response to perceived threats to the regime. These laws can to a certain extent be associated with the current leadership of the three countries.

In Russia there has been increased pressure on civil society since the mid-2000s, when the first legal constraints on independent civil society organisations were imposed. Especially since Vladimir Putin took over as president, the relationship between state and civil society has changed. Putin regarded the role of civil society in black and white terms as either adversarial or supportive of the state. Organisations that are more critical are increasingly disadvantaged. Repression of civil society in Russia accelerated after anti-government protests in 2011/2012 that were part of the Colour Revolutions. In China the Tiananmen protest of 1989 led to the ban of civil society organisations that posed a threat to the Chinese Communist Party. After a long period in which civil society was allowed to develop, more recently, and especially since Xi Jinping came into power, civil society has been restricted, partly in response to the role that foreign civil society actors played during the Colour Revolutions and the Arab Spring. In Saudi Arabia, there always has been a high level of restriction regarding civil society. Civil society critically opposing the government is so marginalized that some have questioned its entire existence. The more the state opens up to civil society the harder it becomes to sustain its autocracy. Increases in political demands from the public or in Islamist threats are often followed by counter-terrorism operations that also eliminate peaceful opposition in the country. A further crackdown on politically orientated civil society actors has occurred following the Arab Spring and in the period since King Salman bin Abdelaziz and his son Crown Prince Mohammed bin Salman became heads of the government.

All three countries have recently brought in legislation that criminalises political and human rights related activities. In Russia, the authorities have issued the ‘foreign agent law’ (2012) and in this way created a civil society environment increasingly hostile to organisations that are not supportive of the state. In China, the ‘overseas NGO law’ (2017) keeps both local and overseas NGOs from engaging in political activities, out of fear that this could cause an uprising against the state. In Saudi Arabia, the ‘NGO law’ (2016) prohibits political organisations from registering. While these recently implemented laws in all three countries restrict civil society actors with a political agenda, they also regulate and allow to operate those organisations which provide social services. These organisations could hardly be considered as having a transformative or oppositional role regarding the state, but are nevertheless referred to as civil society actors by the Russian, Chinese and Saudi governments. Civil society actors that strive for political freedom and human rights are often unable to register under the new legislation. Such registration attempts could even alert the

authorities to the fact that they are involved in political activities. Civil society legislation in all three countries grants far reaching authority to the government to determine which organisations are allowed and which are forbidden. Furthermore, these laws give the authorities the possibility to randomly check civil society organisations and close them if they find something that goes against the stipulations of broadly defined regulations. In addition, civil society legislation places a large administrative burden on civil society organisations who have to provide detailed information about their members, financial administration, and activities. Furthermore, the overall process of registration and the implementation of regulations lack transparency and therefore allows latitude in implementation. Another common factor among the civil society laws is that they all restrict foreign financial support, making civil society organisations financially more dependent on their local governments. Due to these civil society laws, it has become harder for civil society organisations to operate independently from the government. While some of them used to be able to operate in a regulatory ‘grey’ area, this sphere now has been closed or at least has shrunk very significantly.

Local circumstances, local approaches

Although the goals of the Dutch cooperation with civil society are similar in each country – advancing human rights, strengthening the rule of law, supporting democratic movements – the methods used to achieve these goals differ for each country. China, Russia and Saudi Arabia are all led by autocratic regimes, but their political systems, cultural norms and institutional contexts vary to such an extent that in each country different approaches to supporting civil society are needed. For example, to support women’s rights in Russia, the Netherlands sponsors film festivals or art exhibitions that touch on women’s rights. Arts and culture have proven to be very efficient ways to reach a large number of Russians with the Dutch human rights message. In Saudi Arabia, on the other hand, it is harder to engage the population with the concept of women’s rights. In this country, it is more effective to appeal to the economic necessity of female participation in the Saudi workforce to improve the position of women. The Netherlands does support film screenings that touch upon human rights in China as well, but it chooses other themes than those chosen in Russia – censorship in relation to art, for instance. The need for a country specific human rights policy is best illustrated by the case of Saudi Arabia, where it is obvious that civil society actors are too limited and powerless to be the ‘change agents’ that the Dutch government wants them to be. Open cooperation with, or financial support of civil society actors is not possible. As such, more creative ways to support civil society should be developed. The Netherlands has adjusted its human rights diplomacy to the changing circumstances by providing more support under the radar, looking for different ways to support civil society, and making less information about the cooperation available to the public. The Dutch government appears to have progressed further in the adjustment of its policy towards Russia than towards China and Saudi Arabia where the largest changes in civil society legislation have been implemented more recently.

It is important that the Netherlands continues to see the differences between the countries where it supports civil society and understand that each has its own problems and opportunities, requiring specific answers. The previous cabinet chose its areas of priority by

looking at themes and values that were strongly felt in the Netherlands. This might not always lead to the best results. This is illustrated by the Dutch desire to support LGBT rights in Russia as openly as possible. Pressured by the Dutch Parliament, the Ministry has been trying to help Russian LGBT organisations participate in gay parades. However, most of these organisations feel uncomfortable with this kind of participation and find it counterproductive. The Ministry is pressured to support such initiatives by Parliament and public opinion in the Netherlands. A policy that is more tailored to the country's specific needs and circumstances and is less dependent on public opinion in the Netherlands would lead to better results. The Dutch human rights diplomacy should become even more dynamic if the current trend of shrinking civil society space continues. It is important to keep exploring all options regarding support for civil society and to keep evaluating the underlying policy.

Moreover, it is important to keep in mind that the relationship between the Netherlands and each individual country has a bearing on the opportunities that the Dutch government has to advance civil society in that country. The relationship between the Netherlands and Russia is much worse than that between the Netherlands and China. This makes it possible for the Dutch government to be slightly more assertive in its support for civil society in Russia, given that the relations between the countries are bad anyway. In China, on the other hand, the Netherlands is more reluctant to risk its relatively good relations by taking actions that could severely displease the Chinese authorities.

Adjusting expectations

According to the previous cabinet, human rights, democracy, and the rule of law are interwoven and demand one comprehensive approach. Without the promotion of human rights, the other two could not be realised. Human rights defenders, who often operate in civil society, are therefore not only indispensable in the promotion of human rights, but in their role as 'change agents' they also help societies to go through a transitional process towards democracy and the rule of law. However, as has emerged from the three country studies, recent developments raise questions about whether it is meaningful to expect such a profound impact from civil society actors operating in authoritarian states.

In China, for example, a new approach by the party-state has influenced the type and amount of impact that civil society actors can generate. Whereas before many of these actors were able to undertake activities in a legal grey area, where they were tolerated by the authorities as long as the issues they dealt with were not too sensitive, new legislation and stricter control by the authorities has closed this under-regulated sphere of civil society. Civil society actors are pushed to register officially, which enables them to operate more efficiently but limits the activities they can undertake to those within the realm of non-sensitive, apolitical social service provision. Actors who are active in more sensitive fields and who are not registered officially often have to stop or scale-down their activities because of growing government scrutiny and financial problems. Twenty years of civil society growth in China has not convincingly resulted in improvements regarding political human rights, let alone set in motion a movement towards democracy or the rule of law. Recent developments in China's civil society have only made it more difficult for human rights defenders to realise such goals.

Similarly, recent developments in Russia have had negative consequences on the impact that civil society actors can have. The foreign agent law has weakened the position of

NGOs in several ways, especially those working on human rights. These civil society actors are now applying self-censorship, face financial problems, and find it difficult to establish relations with the authorities or connect with society. It is furthermore problematic for human rights NGOs to receive financial support from or cooperate with the Russian government. These actors also receive increasingly less media coverage, face falling membership numbers and find it harder to cooperate with other organisations. It has therefore become increasingly difficult for these civil society actors to generate a positive impact and to fulfil their role as ‘change agents’.

In Saudi Arabia, civil society actors are also not in a position to establish profound political change. Although the Internet creates some space for these actors to operate and to interact with one another, new legislation combined with harsh punishments has limited their activities overall. The anti-terrorism law leaves very little room for people to organise critical voices and to stage protests. Under the NGO law, political NGOs are not allowed to register and only government sanctioned organisations and organisations that carry out activities complementary to the government can operate. There is no room for human rights activism or organisations that are advocating political transformations whatsoever. Even though some activists will continue to push for social change, many have indicated that they are more reluctant to proceed with their activism because new legislation criminalizes their activities. The impact that civil society actors can generate, regarding issues such as human rights and democratisation, which was already very small, has therefore further decreased.

It has thus become more difficult for civil society actors to fulfil their role as ‘change agents’ in authoritarian states, especially regarding political issues such as the protection of political human rights and realising democracy, which implies that the current Dutch government should adjust the expectations it has of these actors. However, this does not directly mean that civil society can no longer play a meaningful role within the Dutch human rights policy and there are strategies that could help to ensure the ‘change agent’ role of the civil society partners of the Dutch government.

Strengthening civil society as a goal in itself

Since it seems the case in all three countries that civil society is increasingly struggling to generate an impact regarding human rights, it is clear that something needs to be done in order for civil society actors to become actual ‘change agents’ and to make it worthwhile for the Dutch government to cooperate with them. In all three countries the infrastructure for civil society is underdeveloped or absent. There are no strong institutions or umbrella organisations and a clear structure of the sector is lacking. This limits the impact of individual organisations. As a first step to changing this, the Netherlands could start by stimulating the development of civil society infrastructure. Instead of project-based funding, which is focused on clear project-related goals, more funding could be made available for NGOs with the objective of professionalising these organisations and improving their development. When several individual NGOs in one field become more professional, closer cooperation is a logical next step. A condition for receiving this sort of funding should be a special focus on making a connection to society, so that civil society will not become an extremely professional sector that is completely separate from the people it should represent – a problem that civil society in Russia is currently experiencing. Special attention should be given to

NGOs that focus on cooperation within civil society and NGOs working on new techniques that benefit the whole sector: organisational models, crowdfunding techniques, social media/communication strategies, and membership recruitment are some examples. Supporting the development of civil society actors strengthens the sector as a whole, and benefits the long-term health of the sector.

Strengthening civil society as a goal in itself is a strategy that the Netherlands already uses in its cooperation with developing countries. Copying this strategy to other countries where civil society is under pressure, such as China, Russia and Saudi Arabia, is recommended. The situation in Saudi Arabia differs to a large extent from that in China and Russia. Human rights organisations do not exist there, but the Netherlands could use the same strategy on individual activists instead of organisations to strengthen their position. An example where this already happened was in 2013, when the Netherlands spent €16.000,- on improving the position of women and human rights defenders in Saudi Arabia. However, in the case of Saudi Arabia there is less that can be done to improve the human rights situation via funding and direct support than in Russia or China. Openly addressing the oppressiveness of the Saudi regime and its crackdown on civil society would be a more effective method to improve the state of civil society.

The Netherlands has already voiced a desire to strengthen the position of organisations that advocate LGBT rights in the new Subsidy Policy Framework of the Human Rights Fund that was published in January 2017 (Dutch MFA 2017b, 8). This document says that the general goal of the Dutch LGBT policy is to promote equal rights for LGBT people worldwide and one specific goal is to counteract the shrinking space for organisations that advocate LGBT rights. This can be done through bilateral talks with other governments, but it can also, probably more effectively, be done through a bottom-up approach that helps organisations to professionalise, grow, and have a bigger impact. We would recommend expanding this LGBT focused approach to all civil society actors that the Netherlands deems relevant, so that strengthening civil society as a whole will become a major goal in the Dutch human rights policy.

Legal concerns

The three country studies indicated that recent developments in authoritarian states have changed the legal position of many of the Dutch civil society partners. For example, both local and international actors operating in China's civil society now face a stricter regulatory regime. The legal grey area in which many of the actors working on human rights were able to operate has been closing and NGOs have been pushed to register themselves with the authorities. However, many civil society actors have been unable or unwilling to register themselves officially, especially those concerned with sensitive and political issues. NGOs from overseas are no longer allowed to fund or cooperate with local actors if they and their local partners are not both officially registered. Non-officially registered local and international civil society actors and their activities are now more explicitly illegal.

In Saudi Arabia, before the implementation of the new NGO law, activists were able to organise themselves without this being illegal, since there was no relevant legislation in place. However, they are now only allowed to organise if they register themselves officially and are technically illegal if they do not. The fields under which civil society actors can

register do not include activities related to human rights. Under the new law, foreign actors are not allowed to operate in Saudi Arabia or cooperate with local partners without the clear permission of the authorities. Furthermore, the anti-terrorism law also criminalises many of the activities of human rights defenders and is mainly used to prosecute such civil society actors. According to the Saudi government, the promotion of human rights harms public order, something that the anti-terrorism law describes as an act of terrorism. From 2014 onwards, many human rights activists in the country have been put to trial for terrorism.

The foreign agent law in Russia did not directly make all civil society actors concerned with relevant human rights issues illegal, but forced many to accept the label ‘foreign agent’, which has strong negative connotations. However, a follow-up law allowed Russian prosecutors to shut down any NGO that was believed to present a threat to the nation. Under the new framework, civil society actors opposing the government are selectively prosecuted. This is something made possible by broad definitions within the laws which allow for latitude in implementation. Foreign funders, especially those from the U.S., have been outlawed based on new legislation. These developments show that the Russian authorities are increasingly using legislation to prosecute critical civil society actors, including those concerned with human rights. Whereas a stricter regulatory framework has closed the unregistered sphere of civil society in China, in Russia it has resulted in a different trend with a growing number of grassroots organisations by local citizens at the local level.

These recent developments regarding the legality of civil society partners have several implications for the current Dutch cabinet. Although the requirements prescribe that grants offered by the Human Rights Fund are intended for civil society organisations with a legal personality, this has not withheld the Dutch government from cooperating with actors in China and Russia which were registered as commercial organisations or not registered at all. These organisations and their activities have become more explicitly illegal. However, it has become very difficult for civil society actors concerned with human rights issues or political transformations to gain proper legal status in the authoritarian regimes that have been studied. This means that it would seriously limit the possibilities of accomplishing positive change if the Dutch government offers civil society support only by partnering with actors who have a legal personality. The current cabinet should therefore carefully consider the pros and cons of cooperating with illegal partners and the possible implications of such cooperation.

5. Conclusion

In the countries researched for this study, the critical, independent sphere of civil society has been facing increasing pressure. In recent years, several laws have been adopted that have further restricted the space in which independent civil society actors can operate. The content of these laws and the specific civil society climate differ in each country, but a clear shift towards a shrinking civic space that is heavily regulated by the authorities is visible in all of them. This has several implications for the future role of civil society actors within the Dutch human rights policy. The Dutch government has reacted to these developments by merely adjusting the execution of its human rights diplomacy to the changing circumstances. It is however important that the Netherlands clearly recognises the differences between the countries where it supports civil society, something which should lead to a more target-country driven approach. It is also apparent that it has become more difficult for civil society actors to fulfil their role as ‘change agents’. Therefore, it is questionable whether it is realistic to expect civil society actors to have a genuine impact on the human rights situation in target countries. The Dutch government should thus either adjust the expectations it has of these actors or help them to become effective leaders of social change by making the strengthening of civil society a goal in itself. Furthermore, recent developments in authoritarian states have changed the legal status of many of the Dutch civil society partners. Many of them have officially become unregistered actors, something that has rendered them and their activities more explicitly illegal. The Dutch government should consider the desirability and complications of working with such partners. To face the challenges that lie ahead, the Dutch government needs to be creative, open to change and receptive to suggestions from partners and experts. Only then can cooperation with civil society actors offer a meaningful contribution to the Dutch efforts to improve human rights worldwide.

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Appendix 1: Methodology and structure of the country studies

In order to ensure coherence, the three country studies towards the implications of recent developments in civil society in China, Russia and Saudi Arabia for the Dutch human rights policy follow a similar structure and apply similar research methods. At the same time, there remains enough room to apply specific approaches that are valuable in each of the individual cases. Following this path makes it possible to do meaningful research, while also creating opportunities to compare the findings of each case, enabling a convincing answer to the research question.

Definitions

Any research about civil society or human rights needs to pay special attention to defining these concepts, as they have a long history of contested interpretations and implications (Edwards 2011; Donnelly 2013). Within this report, a relatively straightforward strategy has been applied where possible, by following the definitions and understandings of relevant concepts adopted by the Dutch government. This is a suitable approach, because this report aims to analyse the Dutch human rights policy, and because these are workable definitions.

This means that when human rights are under discussion in the report, this refers to the definition provided by the *Netherlands Institute for Human Rights*. This institute states that “human rights are the rights that belong to every human, wherever on earth. Human rights exist to protect humans from the power of the state and need to ensure that every individual can live a life of human dignity” (College voor de rechten van de mens 2018). The definition of human rights defenders that the Dutch government has applied has already been presented in the introduction to this report. Furthermore, the Dutch government has decided to focus on specific areas of human rights in its international human rights policy, which are described under the section ‘The Dutch approach to civil society and human rights under Rutte II’. This report will also focus specifically on these areas of human rights in order to be able to draw conclusions and recommendations regarding the Dutch human rights policy.

A definition of civil society as applied by the Dutch government has been more difficult to find. Therefore, the authors have chosen to follow an oft-quoted definition presented in the Oxford Handbook of Civil Society. This borrows from Michael Walzer in defining civil society as “the sphere of uncoerced human association between the individual and the state, in which people undertake collective action for normative and substantive purposes, relatively independent of the government and the market” (Edwards 2011, 3-4). This prominent definition is also very useful in the context of this research report. First of all, because it limits civil society actors to those who are aiming to realise meaningful ideals, which are exactly those that the Dutch government has aimed to cooperate with and, secondly, because it stresses the *relative* independence of civil society from the government, which is often applicable to the cases discussed in this report. This definition does not address the transformative or democratic implications that some credit civil society with (Edwards 2011, 4). The emphasis on the transformative power of society and its ‘change agents’ implies that the Dutch government does believe civil society actors possess potentially transformative powers, but this potential is under discussion and therefore not assumed in this report.

Applying this definition of civil society means that there are still many types of actors that could be regarded as civil society actors, such as religious organizations, political parties, consumer organisations, foundations, trade unions and charities. Many of these organisations are also captured under the term non-governmental organisation (NGO), which the United Nations defines as “any non-profit, voluntary citizens’ group which is organized on a local, national or international level” (United Nations 2018). These are just a few examples of the type of actors that are often non-profit, relatively independent from the state and which pursue meaningful ideals. The report focuses primarily on those civil society organisations that the Dutch government has aimed to include in its human rights policy or those that have the potential to be meaningful in this regard, as these are the most relevant actors in the context of the research.

Structure of the country studies

As stated above, the three country studies are similar in structure and each consists roughly of two main sections. Section one focuses on the current state of civil society in the respective country. First of all, it is fruitful to create a clear outline of what civil society looked like around the time of the publication of the human rights policy of the previous cabinet in 2013. Such a baseline measurement is necessary to be able to discuss how and to what extent the situation has changed in recent years and what the implications are for the policies of the Dutch government. In each study, this will be followed by a discussion of the major developments that have taken place in recent years regarding civil society in each country, focusing on those transformations that are relevant for the Dutch human rights policy. Thereafter, the implications of these developments for the human rights defenders who are active in civil society and with whom the Dutch government has aimed to cooperate will be analysed. Ultimately, these civil society actors are the ones through which the Dutch government has aimed to improve human rights conditions.

Section two of each country study focuses on the implications of recent developments in the respective civil societies for the efforts of the Dutch government under Rutte II to include civil society actors in its human rights policy. This section will first discuss the specific human rights policy adopted in each country, with a focus on the cooperation with human rights defenders from civil society. Following this, the implications of the findings that have come forward in section one for the Dutch human rights policy in the respective countries will be analysed in a conclusion, accompanied by country specific recommendations for the Dutch government regarding its human rights policy.

Methods

The methods applied in the country studies vary slightly, depending on, for example, the amount of academic literature available and the different human rights approaches of the Dutch government in each country. Nevertheless, the same methods have generally been applied, based on their applicability and utility for each section of the structure as described above.

Regarding the first section of each country study, the baseline measurement relies primarily on a review of academic literature. Civil society has been a much studied topic in academia and valuable studies have been conducted for each of these countries. These studies,

when approached critically, can create a clear image of the characteristics of civil society around the time of the introduction of the human rights policy of the previous cabinet in 2013. The discussion of what recent developments in civil society entail will similarly be based to a certain extent on academic literature. However, as some of these developments have occurred very recently and have therefore not yet been the topic of academic publications, other sources of information, such as media reports, legislation, policy documents and reports by NGOs are also studied. A thorough academic analysis of the impact of these developments on human rights defenders who are active in civil society and with whom the Dutch government has aimed to cooperate has not been undertaken so far. Therefore, each country study conducted a set of interviews with relevant actors, which have also helped to identify developments in civil society. The approach that has been applied to the interviews deserves further methodological description.

These interviews have been qualitative and semi-structured in nature, focusing on a set of themes that have been informed by both existing academic literature as well as the priorities of the Dutch human rights policy in recent years. This approach allows specific issues to be discussed when necessary or relevant and helps to create opportunities for respondents to share information based on their own experiences, while still covering similar themes in each interview (Marsh and Stoker 2002, 198). For example, civil society actors who have cooperated with the Dutch government are asked how recent developments impacted this cooperation, while other actors are asked how recent developments have influenced their attitude towards possible cooperation. Qualitative interviews enable the perspectives and experiences of the respondents to emerge, which is relevant in the context of the country studies, as these civil society actors are the ones with whom the Dutch government aims to cooperate with to improve human rights conditions (Marsh and Stoker 2002, 199). Apart from questions related to cooperation with the Dutch government, the consequences of recent development for human rights defenders' activities, autonomy and the impact that they can generate are also being covered as well as possible changes in attitude towards international cooperation. All the respondents will be categorised into different types, for example 'local registered NGO'.

The transcriptions or detailed recordings of the interviews, which form the raw data, are approached inductively. Any information that comes forward in the interviews and that is interesting in light of the research question will be labelled and categorized into relevant categories, such as 'attitude towards international cooperation' or 'impact on society'. After processing the interviews in this way, the excerpts that fall under the different categories are then analysed in order to track down and abstract corresponding and contradictory perspectives and themes apparent within each category. Finally, the findings that have emerged in this way will then be linked to the type of respondent, which makes it possible to analyse how different perspectives relate to the different types of civil society actors. For a detailed description of this process of 'coding' and analysing, see Irving Seidman's book on interviewing as a qualitative research method (Seidman 2013, 127-132).

Section two of each country study, which focusses on the policy side, relies heavily on policy documents produced by the Dutch government under Rutte II. These documents contain a lot of relevant information. However, many of them are from the early period of the previous cabinet and therefore do not comment thoroughly on the implications of recent

developments in civil society. Furthermore, sensitive information is not published within public documents. Because of this, interviews have also been conducted with different representatives of the Dutch Ministry of Foreign Affairs and the relevant Dutch embassies. These interviews and the data they generate are approached in a similar way to those conducted with human rights defenders active in civil society. As both the perspectives of those who are involved in civil society and that of the Dutch government are taken into consideration, it is possible to paint a clear and complete picture.

Since the cooperation between the Dutch government and civil society actors in the countries under discussion can be a sensitive issue, close attention has been paid to ethical considerations regarding the interviews. The safety and interests of the respondents have been protected as well as possible, in close cooperation with the participants themselves. Interviewees were properly informed about the research project beforehand so that they could make an informed choice about whether to participate or not. If the respondents preferred, they were able to remain completely anonymous. Where necessary, anonymity was automatically enforced. The respondents were given the opportunity to read and adjust all references made to their interviews within the report so that they could make sure that they or their organisations were not endangered in any way. The interviews and the data these produced have been handled carefully to ensure no information could have unintentionally reached a third party.

Limitations

There are some difficulties and limitations confronting this research project. These have been dealt with as adequately as possible. The first limitation concerns the sensitivity of the research, which has made it relatively difficult to find respondents who are willing to talk openly on this issue in an interview. By offering measures to protect the safety of the respondents, this limitation has been overcome to a certain extent. However, the Dutch government has not been willing to share much information on the details of their cooperation with civil society actors in China, Russia and Saudi Arabia. This is understandable, as the government does not want to endanger its partners or its own policies. The interests of the Dutch government and those who are involved in civil society need to be respected. This has made the research more challenging, though definitely not impossible.

Another challenge has been the language barrier. Apart from the researcher carrying out the Russian country study, the main researchers do not have a mastery of the local languages to a sufficient level to allow them to conduct interviews in these languages. English has therefore been primarily used in the interviews. The limitations that accompany this language barrier have been taken into consideration during the research, paying close attention to word choice and translations. Furthermore, a few of the developments in the respective civil societies are in some respects too recent to be able to measure their full impact. Therefore, it is necessary to be careful to not draw premature conclusions. Finally, for some respondents, the recommendations made by this research might have a negative impact, financially or otherwise. Therefore, the answers given by such respondents might not completely reflect reality, as they take their own interests into account. Just as with the limitations mentioned above, this is taken into consideration as much as possible in order for it to not affect the quality of the research.

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Appendix 2:
**Civil society cooperation in the
People's Republic of China**

Jonas Lammertink

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Introduction to the Chinese case

The Dutch government stated in its 2013 China policy report that human rights formed a core theme of its relations with the country. At the same time, the document indicated that the human rights conditions in China remained worrisome and therefore contained several strategies by which cabinet Rutte II aimed to promote human rights in the country. Cooperating with partners outside of the Chinese government, such as civil society actors, is one of these strategies, in line with the general Dutch human rights policy of recent years (Dutch MFA 2013a; Dutch MFA 2013b, 8). It is therefore not surprising that civil society actors have received financial support from the Dutch Embassy in Beijing (Dutch MFA 2016a, 2016b and 2017).

However, as is the case with the other countries under discussion in this report, civil society in China has witnessed several transformative developments in recent years. Some China-watchers, NGOs and journalists have described such developments as a ‘clampdown’ or ‘crackdown’ on civil society (Hsu and Teets 2016, 1; Amnesty International 2016, 5). These developments include nationwide campaigns targeting human rights defenders and the implementation of stricter legislation regarding NGOs. Much has therefore changed since the publication of the 2013 China policy report, which stated that freedom for Chinese citizens and space for criticism and public opinion was growing (Dutch MFA 2013b, 5). This makes the People’s Republic of China, together with its size and influence, an interesting country to discuss within the context of this report.

This country study largely applies the structure, definitions and methodology and takes into consideration the limitations that have been set out in the general ‘Methodology and structure of the country studies’ section. This means that part one of this study presents a baseline measurement of China’s civil society around the time of the introduction of the human rights policy of cabinet Rutte II in 2013, followed by a discussion of recent developments that have occurred in China’s civil society. These sections rely primarily on academic literature, supplemented by policy documents and reports by media outlets and NGOs. Following this, the study goes on to analyse the implications of these developments for the civil society actors which the Dutch government has aimed to include in its human rights policy. Since very little academic literature has been published on this issue so far, a set of interviews has been conducted with representatives of NGOs that are relevant to the Dutch human rights policy regarding China. There are several reasons why the interviews of this country study focus specifically on this type of civil society actors and not on, for example, unorganised online activism.

First of all, applying a certain focus is a practical necessity because of the wide range of actors which could be considered to operate in civil society. Secondly, cooperating with these specific actors forms an important part of the Dutch attempts to include civil society within its human rights policy for China, as is revealed in part two of this study. Finally, recent developments in China’s civil society may have an impact which would be especially large for this type of civil society actors. The approach to the interviews and the data that these interviews produced has also been discussed extensively in the overarching ‘Methodology and structure of the country studies’ section of this report.

Part two of this country study begins by outlining the Dutch human rights policy that has been taken regarding China in recent years, specifically focusing on the inclusion of civil

society actors within this policy, based on reports and documents by the Dutch government and NGOs. Thereafter, the findings presented in part one of this study will be compared to the approach of the previous cabinet in order to analyse what the implications are of recent developments in China's civil society for the inclusion of civil society actors in the Dutch human rights policy regarding China. This leads to a set of conclusions and recommendations for the new cabinet.

It is necessary to clarify more closely what it means to apply the concept of 'civil society' to the Chinese context. Doing so results in certain theoretical issues, which has led some to question whether a civil society exists in China at all (Simon 2013, xxvii). Civil society as a concept emerged from the Western historical experience and has been understood as, for example, a sphere that is entirely disengaged from and sometimes in opposition to the state (Simon 2013, xxvii). Furthermore, there exist very ideological interpretations which portray civil society as the ideal counterpart of the state which embodies social virtue confronting political vice (Yu and Guo 2012, 2).

Some academics have chosen not to approach civil society in China from such a Western perspective, because the grip on society by the Chinese party-state is relatively large or because transformative political reforms have remained absent. Instead, they have applied a perspective that emphasises the interconnectedness, partnership and dependency between civil society and the Chinese state (Yu and Guo, 4-7; Yu 2008, 136-139; Hsu 2014, 99). There also exist neo-liberal interpretations of the concept which regard civil society as a service-providing, not-for-profit sector, necessitated because of market failures, which does not necessarily challenge the balance of power (Edwards 2011, 5-6). Fortunately, applying Walzer's definition of civil society, as discussed in the 'Methodology and structure of the country studies' section of this report, makes it possible to approach China's civil society openly, without discrediting any of the interpretations mentioned above. This is useful in the Chinese case, because of the various approaches applied by scholars. Ultimately, labelling the actors that the Dutch government includes within its human rights policy is not important. What is important is how this practice can best be approached by the new cabinet. Therefore, this open approach to the concept of civil society contributes to the quality of the conclusions of this study of the Chinese case.

Part One: The current state of civil society in China

In order to be able to investigate what the implications are of recent developments in China's civil society for the inclusion of civil society actors in the Dutch human rights policy, it is first necessary to gain insight into what these developments entail and how they have influenced the civil society partners of the Dutch government in China. Part one of this study will therefore first discuss the historical origins of China's civil society to provide understanding of its specific characteristics. This will be followed by an analysis of what civil society looked like when the previous Dutch cabinet introduced its human rights policy in 2013. This baseline measurement, the starting point from which recent developments will be mapped, focuses on the autonomy, impact and international relations of civil society actors in China. These three themes are relevant to the Dutch human rights policy regarding China, since this policy aims to cooperate with actors who are outside of the Chinese government (and are thus relatively autonomous) and who are change agents (therefore having a certain level of impact), ultimately resulting in international cooperation. Following this, the case study moves on to identify and discuss recent developments in China's civil society. Finally, the implications of these developments for those civil society actors which the Dutch government aims to include in its Chinese human rights policy are analysed based on a set of interviews with such actors. This analysis focuses again on the autonomy, impact and international relations of these actors.

I. The emergence of civil society in the People's Republic of China

Most academics agree that from the founding of the PRC in 1949 to the start of the reform period in 1978, the Chinese Communist Party (CCP)'s totalitarian control over China's society meant that there was practically no space for a civil society. Almost all civil organisations which had existed before 1949 disappeared (Yu 2008, 140-141). These were replaced by institutions through which the CCP attempted to control China's society and economy, such as the work units and rural communes. To ensure a link between the Party and society, the CCP also established so-called mass organisations. In line with Leninist socio-political architecture, these institutions served not only to transfer policy downwards to important constituencies, such as the youth, workers and women, but also informed the Party about the views of such groups. The offices, staff and activities of most of these mass organisations were supported by the party-state and they were led by Party committees at all levels (Howell 2011, 160; Yu 2008, 141). These organisations therefore completely lacked autonomy and should not be considered civil society to be part of a civil society existing at that time. Under Mao, the centralized political system simply did not allow for the existence of a relatively independent civil society.

This changed after 1978 with the start of the reform period. Civil society in China began to develop, undergoing cycles of contraction and expansion, resulting in several phases (Howell 2011). The first phase started when, under the leadership of Deng Xiaoping, market-oriented reforms were introduced, which transformed the architecture of China's society. This resulted in the emergence of organisations, primarily founded by mass organisations and government institutions at varying state levels, that could be considered civil society actors. There were two major reasons for this development. First of all, the mass organisations no longer reflected the complexity of interests in China's society as a consequence of the

relaxation of control over the economy by the CCP, which now allowed for a diversification of ownership forms. As a result, the Party started to encourage new forms of association, such as trade and business associations and sports clubs, which were also made possible by the growing prosperity of the population (Howell 2011, 160-161; Yu 2008, 142-142). Secondly, reflecting the semi-privatization of governance, the reforms led to a transferring of government functions towards ‘social organisations’ (*shehui zuzhi*) which were often founded by governments. Although every social organisation was to be associated with a government agency and supervised by the state commission, this development was rather unregulated and lacked oversight, which may have contributed to the founding of unregistered student associations and trade unions, some of which played a role in the 1989 Tiananmen protests (Simon 2013, 186-192, 207; Howell 2011, 161).

The crackdown on the Tiananmen protests brought a new phase of civil society development in which the CCP reasserted its strict control over China’s civil society. All organisations which the Party considered to be a threat to its rule were prohibited and new regulations made the registration process for social organisations more difficult. Instead of merely registering at the Ministry of Civil Affairs, these organisations were now also required to find a government agency sponsor responsible for supervising their activities under the so-called Dual Management System (Howell 2011, 160-163; Simon 2013, 186 and 193). The activities of these non-commercial and relatively independent social organisations included providing social welfare, coordinating sectoral policy, defending the interests of their members and providing technical assistance to the state. The major differences between them and civil society organisations in the West were their closer ties to the state and the fact that most of them were still offshoots of mass organizations or directly founded by governments (Simon 2013, 193-194, 202-206).

A third phase of civil society development began in the early 1990s, when the tight grip of the CCP on China’s economy and society began to loosen again, something indicated by Deng Xiaoping’s Southern Tour in 1992. According to Howell, this phase was characterised by two major features. First, more organisation sprang up which focussed on the needs of social groups which had been marginalized during the reforms. Issues such as HIV/AIDS, domestic violence, poverty, the rights of migrant workers and the environment were now addressed by these actors (Howell 2011, 161-163). A second feature consisted of, according to Howell, people “recapturing associational space and pushing back the barriers that the party had tried to impose” (Howell 2011, 163-164). Chinese citizens found ways to organise themselves around shared concerns while working outside the registration regulations of social organisations by, for example, registering as companies or university research centres. Other organisations chose to not register at all. Such organisations would not face many problems as long as their operations stayed within the limits of what the Party considered to be acceptable (Howell 2011, 162-164). Civil society thus consisted of an official registered sphere and an unofficial one. This phase continued in the 2000s, when the 2008 Sichuan earthquake gave a boost to volunteering and the perceptions of the government towards civil society organisations, as many of these proved useful in emergency relief activities. On the other hand, civil society faced increased pressure from the Chinese government during the 2008 Olympic games in Beijing, out of fears of protests and terrorist attacks (Howell 2011, 163-164).

Howell concludes her 2011 discussion of the development of civil society in China on a positive note, stating that “The development of civil society over the last three decades has thus been characterized by cycles of contraction and expansion, with each cycle representing a gradual widening of associational space” (Howell 2011, 164). Simon is similarly optimistic, stating that 2011 was a year in which much was accomplished in opening the space for civil society (Simon 2013, 341). This is how China’s civil society, in a broad and open understanding of the concept, roughly developed itself over the last decades and how it entered the period of Xi Jinping’s leadership which began in 2012.

II. Civil society in China around 2013

The autonomy of civil society actors from the state in China

China’s civil society around 2013 consisted of many different types of actors with varying levels of autonomy from the state. All of these can be considered civil society actors under the open interpretation of civil society applied in this study, which emphasises the *relative* autonomy of civil society actors. The two types of actors closest to the government both operated in the official sphere of civil society. Within this sphere, the mass organisations had the lowest level of autonomy, being the ‘social arms’ of the Party and basically quasi state organisations (Gao and Xia 2016, 35). The second type of actors operating in the official sphere were the so-called Government Organised NGOs, or ‘GONGOs’, many of which were spin-offs of government agencies and public institutions. Examples of these government-initiated organisations included academic associations, trade organisations, charity organisations, and sports and culture clubs (Yu 2008, 147).

According to Smith and Zhao, the mainstream view among academics, though not completely unchallenged, holds that these actors generally lacked autonomy (Smith and Zhao 2016, 17). This was the result of the mechanisms through which the government controlled these actors, the most important of which was the above mentioned Dual Management System (Hsu 2014, 101). Furthermore, some GONGOs had Party cells established within their organisation, while prominent organisations often were financially dependent on the state. In fact, most GONGOs received at least initial funding from the state, while their leaders were frequently (retired) officials (Yu 2008, 151, 163-164; Shieh 2016, 48). Although the degree of autonomy among GONGOs varied, depending on their financial position and the attitude of the sponsoring agency, Shieh has argued that even under a non-transformative and oppositional interpretation of civil society, mass organisations and GONGOs would not qualify as civil society actors because they were inadequately separate from the state, self-governing or voluntary in nature (Smith and Zhao 2016, 17; Shieh 2016, 49).

Moving further along the spectrum of autonomy, actors who operated in the unofficial sphere of civil society could be found. These have been considered grassroots organisations, referring to the bottom-up way in which they emerge, in contrast with the top-down emergence of GONGOs (Smith and Zhao 2016, 19). The level of autonomy among these actors also varied. Some had chosen to register alternatively (e.g. as a company) or were ‘affiliated’ to a legally registered organisation. Others which were unable to operate publicly, such as radical political organisations and underground religious groups, chose to remain completely under the radar (Gao and Xia 2016, 35; Shieh 2016, 48). Many scholars agree that these actors enjoyed a higher level of autonomy than those operating officially and were largely independent from the state (Yu 2008, 162; Shieh 2016, 49-54). This resulted in a

public space independent from the government (Smith and Zhao 2016, 19).

When unofficial civil society actors accepted certain (unwritten) rules and limits to what they could do, they were generally tolerated by the local government, who often lacked monitoring capacity or considered them to be unthreatening. If they were not tolerated in this way then these actors had to operate much more cautiously and often underground (Smith and Zhao 2016, 14 and 19-21). Some scholars have noted that those civil society actors providing social services were left to operate, while actors involved in relatively more sensitive fields such as legal aid, advocacy, labour organising and ethnic minority affairs were much more closely monitored, harassed or shut down (Shieh 2016, 49-54).

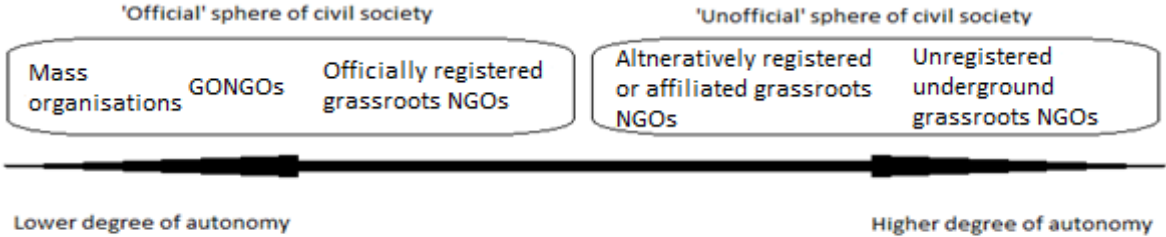


Figure 1. The relative autonomy of civil society actors in China regarding the state

The impact of civil society actors on society and policymaking in China

Considering the different levels of autonomy of civil society actors in China, it is unsurprising that the type and amount of impact these actors were able to generate also varied. Nonetheless, after two decades of civil society growth without much political reform, most scholars reached agreement that it was unlikely civil society actors could achieve one specific outcome: a political transformation geared towards Western-style democracy. Research has therefore moved away from equating civil society with democratisation (Hsu 2014, 98-100). Instead, scholars have described either a state-society relationship in which a relatively autonomous civil society and an authoritarian political system coexist (Teets 2013, 19-20) or the development of a non-critical, service-oriented civil society that is co-opted into China’s political system (Shieh 2016, 67). This did not mean, however, that around 2013 civil society actors were unable to generate any positive impact on China’s society and politics regarding human rights.

Many different types of civil society actors found ways to work around the restrictions put on them, resulting in a considerable impact in spite of these restrictions. This was possible because of the limited capacity of the authorities to enforce control and the fragmented state of the Chinese government, which created opportunities for civil society actors to negotiate and make use of varying interests among different government levels. Using social media, cooperating with other civil society actors and allowing local governments to claim credit for their good work offered more possibilities for these actors to undertake activities and expand their influence (Shieh 2016, 56 and 64; Spires 2011, 13 and 17-24). Furthermore, developing good relations with local governments was crucial in this respect, as it could grant civil society actors access to policymakers (Smith and Zhao 2016, 18; Hsu and Teets 2016, 5). Finally, careful, orderly and non-violent resistance at the local level, while avoiding any appearance of challenging the political system, resulted in meaningful forms of political and citizen participation (Smith and Zhao 2016, 29-30).

These strategies enabled civil society actors to generate serious impact in China, also in fields that were relevant to the Dutch human rights policies. Yu has argued, referring primarily to the official sphere, that civil society actors in China have promoted more political citizen participation and democratic policymaking and have checked government behaviour, contributing to good governance (Yu 2008, 152-167). Hsu agreed that civil society actors facilitated citizen participation and offered a means for the public to practice political skills and test political limits. She argued that even though civil society actors in China were not synonymous with democracy, they were no less transformative than their counterparts in the West, as they could influence state attitudes, behaviour and policy at the local level and reshape national discourses on issues such as migrant workers' rights and HIV/AIDS. The service delivery of civil society actors empowered migrant workers and helped to improve their social rights (Hsu 2014, 102-107).

While Yu stated already in 2008 that civil society actors were attempting to influence Party and state policies, Zhang and Guo have found that the intensity of advocacy activities by official Chinese civil society actors was still moderate (Yu 2008, 152-167; Zhang and Guo 2012, 229-230). However, Shieh has emphasised that the advocacy role of civil society actors, including grassroots organisations, has grown over the years (Shieh 2016). According to Shieh, more civil society actors moved towards advocacy work, increasingly negotiating over policy and influencing local and even national decisions. The advocacy role of these actors became more institutionalised and increasingly diverse methods were applied by actors such as NGOs, academics and bloggers to raise public awareness and influence government policy (Shieh 2016, 58-60).

There were certain limitations which negated what civil society actors in China could achieve. For example, such actors were generally only allowed to operate locally, often below the provincial level (Hsu 2014, 102-103). Furthermore, they could not advocate or push for comprehensive political reforms and were not allowed to mobilize large groups of people. Extremist groups could not call people to the streets at all (Spires 2011, 12 and 34). Finally, many civil society actors lacked professional capacity and recourses, especially unregistered actors who faced lower prestige and difficulties in owning property, hiring staff and receiving funds (Smith and Zhao 2016, 21 and 43).

The role of overseas actors in China's civil society

Several scholars agree that overseas actors have played an important role in China's civil society, providing new visions and methods and facilitating the creation of NGOs, horizontal networks and partnerships between grassroots actors and local governments (Smith and Zhao 2016, 22-23; Hsu 2014, 104; Shieh 2016, 58). Especially in sensitive areas, where local actors received little support from Chinese foundations or the government, such as migrant labour rights or legal aid, resources from abroad were important (Shieh 2016, 61-62). In fact, it has been argued that some local NGOs have actively chosen to not register officially, since an unregistered status could provide better opportunities to receive support from overseas (Hsu 2014, 101). Nonetheless, overseas NGOs have also been important in fields such as poverty alleviation, humanitarian aid, education, health and environmental protection and have contributed to the development of China's civil society in general, according to Yin (Yin 2009, 522). Furthermore, Han has argued that international NGOs have brought financial support and technical assistance regarding the protection of disadvantaged groups, have

improved the capability of local NGOs, and have remoulded the idea of public interest in China (Han 2016, 23-39).

On the other hand, some scholars have also been more critical about the role of foreign actors in China's civil society. Spires gave a negative review of the training programs of foreign funders for Chinese civil society actors, accusing them of not being adapted to Chinese experiences and of being too top-down in their nature. Their focus on transparency and professionalization also allowed the Chinese government to control local actors more easily (Spires 2012, 144-146). Furthermore, it has been argued that a lot of the overseas funding has gone to actors who are close to the government, such as GONGOs, government agencies and academic institutions (Smith and Zhao 2016, 23; Shieh 2016, 64). Finally, both Hsu and Li have called into question the effectiveness of local actors once international partnerships end, because of the dependence of some of these actors on overseas funding (Hsu 2014, 104; Li, 2016, 9).

An important issue that international actors faced was the underdeveloped legal framework regarding their operations in China's civil society. According to Yin, there was no legal framework for international NGOs to register under, except as foreign foundations (who represented only a very small number), hampering fundraising and cooperation between these actors and the Chinese government, as they had no legal status. While a few managed to achieve special agreements, most overseas NGOs were thus not registered officially. Instead, some registered as a foreign company, opened a program office, or simply funded projects of Chinese partners. These actors often operated quietly under the endorsement of the authorities, who tolerated them as long as they were not politically sensitive. (Yin 2009, 522-529 and 539-541; Han 2016, 23-39). Developing a good relationship with relevant government agencies and focusing on initiatives that did not conflict with China's social and political stability were therefore strategies that international actors applied when operating in China (Yin 2009, 529; Smith and Zhao 2016, 23).

The lack of a clear legal framework reflected the ambiguous stance of the Chinese government. On the one hand, the government acknowledged the contributions of overseas actors in areas such as poverty alleviation, education, social welfare, health and environmental protection, which lowered the financial burden on the Chinese government regarding social welfare and had a positive impact on the reform policies and the development of the rule of law (Yin 2009, 531-533). On the other hand, the government was afraid that international influences might undermine the party-state, a fear stemming in part from events such as the Colour Revolutions in which Western NGOs had played a role (Yin 2009, 534-535). As a result, international actors who focussed on sensitive issues, such as labour rights and religion, were scarce and risked closure, while actors operating in politically non-sensitive fields faced far fewer restrictions and interference (Yin 2009, 529-530).

The underdeveloped legal framework did not help to welcome overseas actors to operate in China's civil society, which made it difficult for the Chinese government to benefit from the positive contributions that such actors could potentially provide. The lack of oversight might also have resulted in lower efficiency and repetitive projects. Furthermore, the system did not address the security concerns of the Chinese party-state, because the low registration numbers resulted in lagging management and supervision by the government. This has led some to plead for the Chinese government to revisit this legal grey area and to

provide a clear legal framework, with Russia serving as a possible example in this sense (Yin 2009, 542-543; Han 2016, 23-39).

All in all, China's civil society around 2013 was rather complex, containing different types of civil society actors with varying levels of autonomy, operating in official and unofficial spheres. The impact these actors could generate in China was substantial, influencing policymaking, facilitating political citizen participation and changing societal perceptions on several issues, though often on a limited scale and in less sensitive areas. The role of international actors in China's civil society was also important, supporting many unofficial local actors, although the underdeveloped legal framework was often a hurdle to the operations of such actors as well as the Chinese government's supervision of their activities.

III. Recent developments: Shrinking space for civil society?

Since the instalment of Xi Jinping as leader of both the People's Republic of China and the CCP in 2012 and 2013 respectively, scholars, journalists and human rights watchers have noted a shrinking of the space for civil society (Haas 2017; Amnesty International 2016, 5; Yuen 2015). This section discusses the developments in China's civil society that have occurred since that time, some of which are indeed indicative of a crackdown on civil society. However, according to Dai and Spires, there are also developments which constitute counter currents, such as the formation of the Charity Law (Dai and Spires 2018, 69-71). The implementation of the Overseas NGO Law in January 2017 deserves special attention, as it is illustrative of the complexity of recent developments and the party-state's approach to civil society. Furthermore, this law is potentially very relevant to the Dutch human rights policy regarding China.

Civil society under increasing pressure

Yuen has discussed several developments that leave little doubt that civil society in China has been facing increasing pressure from the Chinese government under the leadership of Xi Jinping. The author calls into question whether the pattern of relaxation and control that has been indicative of the government's approach to China's economy and society since the reform period, reminiscent of Howells cycles of contraction and expansion of civil society, is still applicable to China, since it appears that government control has started to take the upper hand (Yuen 2015, 51). This is an understandable consideration, as a 2013 leaked internal CCP document, known as Document No. 9, stated that civil society is one of seven dangerous Western values which needs to be addressed, indicating the relatively conservative approach of the Party (ChinaFile 2013).

The growing control of the Chinese party-state is illustrated by two governmental bodies that have been established by Xi's administration, each with far-reaching power over China's civil society: The National Security Commission (responsible for managing several national security issues) and the Cyberspace Administration of China (responsible for cybersecurity against foreign as well as domestic forces) (Yuen 2015, 51). Furthermore, two laws have been implemented which similarly increase the power of the government over China's civil society. The National Security Law and Anti-Terrorism law, both of which were passed in 2015, give the authorities extensive power to control and crack down on anyone who voices critical opinions. Amnesty International stated that the laws are so powerful in

part because of their vague definition of ‘national security’ and inclusion of broad charges such as ‘subverting state power’ (Amnesty International 2016, 5).

The implementation of these new laws and government bodies went hand in hand with campaigns against civil society actors. From 2013 onwards, journalists, activists, scholars, rights lawyers and opinion leaders have been detained and sometimes imprisoned. This crackdown not only targeted individuals, but also civil society organisations such as NGOs. Much discussed examples of these campaigns include the detention of a group of feminists ahead of International Women’s Day in 2015, which was followed by a police raid targeting a prominent gender equality NGO in Beijing. That same year, a large-scale crackdown on rights lawyers was undertaken, targeting hundreds of Chinese lawyers and activists with the main focus being on a law firm which specialised in rights cases (Yuen 2015, 51-54). Hsu and Teets have also discussed the growing pressure on civil society in China in recent years, referring to several cases of NGO repression, including the widely publicised detention of Peter Dahlin, a Swedish NGO worker (Hsu and Teets 2016, 3).

Furthermore, Amnesty International has reported that censorship and control over the internet, academia and the media by the Chinese government have also increased under Xi’s leadership. According to the human rights organisation, the 2017 Cyber Security Law is illustrative of this development, prohibiting groups or individuals from using the internet as a way to ‘harm national security’ and ‘upset social order’, which again are vaguely defined terms (Amnesty International 2016, 5-9; Amnesty International 2017, 119). Yuen has also discussed a 2015 Party directive which stresses the importance of establishing Party cells in all Chinese civil society organisations, which he interprets as an attempt to strengthen the control of the CCP over civil society (Yuen 2015, 56). It would be difficult to argue that these developments do not imply growing pressure being placed by the government on China’s civil society.

Favourable policies

Despite several repressive developments, there have also been certain counter currents within the approach and policies of the party-state, many of which originated before the current crackdown on civil society under Xi’s leadership, according to Dai and Spires (Dai and Spires 2018, 69-71). Indeed, authors have observed a trend that has been developing for several years already. As discussed above, the third phase of civil society development starting in the 1990s saw the rise of many unregistered grassroots actors. The unofficial sphere of civil society thereby became much larger than the official one (Smith and Zhao 2016, 19). This was partly the result of the demanding registration process. At the same time, the party-state recognised the important contributions of many grassroots civil society actors, who often delivered social services, such as education and healthcare, relieving the pressure on local governments which had increased because of the dismantling of social welfare and decentralisation (Howell 2011, 164-165; Teets 2013, 23). This reliance on unregistered and underregulated civil society actors for social service provision resulted in a new approach from the government. The registration barriers were lowered in order to incorporate more of these actors into the official sphere where they could be managed and controlled more easily, while some small grassroots and international actors were allowed to simply file a record of their operations under a new documentation system (Shieh 2016, 52-54 and 66; Smith and Zhao 2016, 39-41).

The official sphere of China's civil society was therefore growing, while receiving increasing autonomy as the government aimed to control this sphere less through GONGOs and a strict registration system (Shieh 2016, 65-66; Teets 2013, 19). The party-state also attempted to enable and improve government contracting, aiming to increasingly outsource social services to civil society actors (Shieh 2016, 55 and 65; Smith and Zhao 2016, 37-38 and 41). Furthermore, the previous policy of allowing only one organisation to represent a particular constituency or to work on a specific issue within one administrative level was relaxed (Dai and Spires 2018, 70). NGOs which made use of these new arrangements thus received better legal status and more opportunities to cooperate with the government, while at the same time allowing the state to control them more easily. Dai and Spires also regard the 2016 Charity Law as being such a counter current, as it makes the registration as a charitable organisation easier, allowing eligible actors to raise funds and receive tax benefits (Dai and Spires 2018, 69-70). The law is regarded as an attempt to improve the flow of money towards China's underfunded civil society (Wrest 2016; Zeldin 2016; Kaja and Stratford 2016).

However, this development of a more enabling regulatory framework focused only on social service-oriented, apolitical and non-sensitive civil society actors who supplemented the state (Howell 2011, 164-165). Many authors have noted that grassroots actors concerned with more sensitive issues, such as labour and religion, or who were engaged in rights-based advocacy, have been excluded from these arrangements (Shieh 2016, 66; Howell 2011, 163-165; Smith and Zhao 2016, 40). For example, civil society actors can gain from the benefits of the Charity Law only as long as they are active in specific non-sensitive and apolitical charitable fields (The International Center for Not-for-Profit-Law 2017).

The Overseas NGO Law

The 2017 Overseas NGO Law (ONGO Law) has been interpreted both as a negative and positive development for China's civil society, as Feng has demonstrated (Feng 2017). The law regulates the activities of overseas NGOs in China, which includes NGOs from Hong Kong, Macau and Taiwan. Under the ONGO Law, overseas NGOs must first find an approved Chinese partner organisation, often one with close ties to the state, to serve as its Professional Supervisory Unit (PSU). Thereafter, these NGOs can register at the Ministry of Public Security, putting them under direct supervision of the police, who receive far reaching authority to control and crackdown on organisations when deemed necessary. If an overseas NGO wants to undertake regular activities, it also needs to open a representative office in the country. Otherwise, overseas NGOs can choose to file for temporary activities with the support of an approved Chinese partner, without having to establish an office or staff.

If overseas NGOs want to cooperate with or fund local Chinese civil society partners, they can only do so with officially registered actors and have to file required materials concerning the collaboration with the authorities. Overseas NGOs can register in nine specific fields: economy, education, science, technology, sports, environmental protection, poverty alleviation & disaster relief, culture and health. If an overseas NGOs is not registered under the law, it is not allowed to operate in China or fund local Chinese partners. Engaging in or funding political activities or 'illegal' religious activities is not allowed and regular reporting of activities to the Ministry of Public Security is required. The law further states that overseas NGOs cannot threaten China's security and national and ethnic unity or harm China's national interests (China Development Brief 2016).

Scholars have pointed to several possible motivations that the party-state might have in implementing this law. As discussed above, before the law introduced, most international civil society actors were not officially registered in China and dealt with an underdeveloped legal framework. These actors therefore often operated under the radar, cooperating with Chinese partners in a regulatory grey area (Feng 2017, 98). A clearer legal framework was necessary to improve the legal status of international NGOs and to make it easier for the Chinese authorities to control and supervise their activities. In fact, Feng states that security concerns formed the primary motivation behind the law, which mainly targeted unofficial grassroots NGOs working in politically sensitive areas. The role of foreign (funded) NGOs during the Colour Revolutions and the Arab Spring uprisings had raised concerns within the Chinese government (Feng 99-103). Despite these security concerns, Hsu and Teets state that “the goal of the Chinese government is not to destroy the NGO sector and civil society, but instead [the law is] a tactical move in a long-term strategy so that the state can gain as much benefit (and minimise as much risk) from the NGO sectors as possible” (Hsu and Teets 2016, 1). This is an understandable remark considering the efforts of the government to widen the ‘official’ sphere of civil society.

There has not been much academic literature regarding the impact of the ONGO Law published so far, but some scholars have discussed potential implications of the law. The opinions of these scholars vary drastically. On the one hand, authors like Feng and Yuen are relatively pessimistic. Yuen calls the law a step backwards, since it revives the Dual Management System for overseas NGOs, while this system had been gradually abolished for domestic actors. The limitless coverage of the law and the transfer of registration responsibilities to public security departments results in extensive power held by the authorities. Furthermore, the registration requirements constrain the flexibility, manpower and funds of overseas NGOs. Yuen foresees that overseas NGOs might choose to avoid activities in sensitive areas to ensure they can maintain their foothold in China and predicts that many grassroots local actors will lose the support of their overseas unregistered partners, on which they rely to a relatively large extent (Yuen 2015, 54-55). Feng, who did write after the implementation the law, also primarily emphasises its restrictive consequences, arguing that there are now three categories of overseas NGOs in China. Only a tiny minority are able to register and even then they face uncertainties. The other two categories consist of overseas NGOs who either suspend their activities and leave China or who choose to continue their operations under the radar, some of them scaling down their activities and terminating new funding to local Chinese partners (Feng 2017, 99-102).

On the other hand, Hsu and Teets have predicted that the negative consequences of the law will be rather limited. They argue that the Chinese authorities already had the power to punish and close overseas NGOs prior to the law, which did not prevent these NGOs from gaining increasing influence. In fact, the authors believe that the law provides overseas NGOs with more safety, certainty and legal status, something Feng contests (Hsu and Teets 2016; Feng 2017, 102). Furthermore, Hsu and Teets have argued that the restrictions on overseas support could actually benefit China’s domestic civil society, helping them “to develop by taking them out of the shadows of overseas NGOs” (Hsu and Teets 2016, 8). Based on a study in Yunnan province, where a similar law was already implemented at an earlier time, the two authors argue that although that the legal grey area in which many unregistered civil society

actors in China previously operated has been closed, the law provides a better legal framework for those actors who are officially registered. They also argue that the law indeed implies that the government aims to benefit more from civil society actors who help to solve its social problems, while aiming to minimise any political risks (Hsu and Teets 2016, 4-14).

In conclusion, the recent developments in China's civil society are relatively complex. Some are indicative of a shrinking of space, while there also exist counter currents which create more opportunities for certain civil society actors. The ONGO Law has similarly been interpreted in different ways, with some interpretations highlighting the opportunities this law brings and others highlighting its restrictive implications. These seemingly contrasting developments appear to fit an interesting evolution within China's civil society which Wilson has called an uneven civil society development (Wilson 2017). Civil society actors who benefit and supplement the government are drawn closer to the state and receive greater status and opportunities, as a result of the lowering of registration barriers and the increased government contracting of NGO services. Those who operate in sensitive areas or potentially pose a threat to the stability of the political regime, on the other hand, are facing increasing pressure and are being cut off from their international support.

IV. Implications of recent developments for relevant civil society actors

The recent developments in China's civil society potentially have implications for those civil society actors with whom, according to the human rights policy of the previous cabinet, the Dutch government aims to cooperate. Analysing these implications, which has not been done thoroughly so far, is crucial, as it is through these civil society actors that the Dutch government attempts to improve human rights conditions in China.

Therefore, between November and January 2017 this study conducted 12 qualitative interviews with individuals who are involved in China's civil society or whose organisations are involved in this field. Five of these interviews were with representatives of NGOs which have cooperated with or received support for their activities in China from the Dutch government. These five include four overseas NGOs and one Chinese NGO. Because both the Embassy and the Ministry of Foreign Affairs did not wish to share much information about their civil society partners in China out of safety concerns, it was not possible to approach more of such actors. Therefore, the dataset has been enriched by four interviews with representatives of NGOs that are active in China in fields relevant to the Dutch human rights policy. These actors have not cooperated with the Dutch government, but could potentially become partners. Of these four interviews, one was with a local Chinese NGO and three were with overseas NGOs. Furthermore, three interviews were conducted with actors who are involved in facilitating the development of the NGO sector in China or facilitating civil society cooperation between Chinese and overseas actors.

Categorising the interviews provides the opportunity to compare the perspectives of different types of actors. Because the difference between the perspectives of officially registered and unofficial NGOs, and between local and overseas NGOs, can provide interesting insights, the categories have been set up to make it possible to compare these. Any NGO that is not officially registered as a 'social organisation' is considered to be an unofficial and non-registered NGO, including those NGOs who are registered alternatively, for example, as companies. One of the interviewees, who is involved in civil society exchanges between

China and overseas parties, does not represent an NGO and therefore does not fit any of these categories. This is taken into account in the findings and discussion. The interview numbers are displayed in each category in the table below.

| | Overseas organisation | Local organisation | Others |
|----------------------------|-----------------------------------------|----------------------------|------------------------|
| Non-Registered NGOs | <i>Category 1</i> (1a, 1b,1c,1d,1e, 1f) | <i>Category 2</i> (2a, 2b) | - |
| Officially registered NGOs | <i>Category 3</i> (3a, 3b) | <i>Category 4</i> (4a) | - |
| Others | - | - | <i>Category 5</i> (5a) |

Findings

Growing pressure

The first important finding from the interviews is that almost all respondents state that the space for their organisation, or for China’s civil society in general, has been shrinking as a result of increasing pressure from the Chinese authorities in recent years (1a, 1b, 1c, 1d, 1e, 1f, 2a, 2b, 4a). This pressure has manifested itself in many different ways, as the answers given by the respondents indicate, and some manifestations have emerged more prominently than others. Both local and overseas NGOs consider difficulties regarding funding as being indicative of this development (1c, 1f, 2b, 3a). Other expressions of the growing pressure on civil society actors include check-ups and harassment by the authorities on NGOs (1b, 2a and 4a), more censorship and less freedom of speech and internet freedom (1d, 1e, 4a), crackdowns on lawyers (1e, 1f), greater restrictions on academics, especially regarding international cooperation (1f) and more arrests of activists as well as forced closure of civil society organisations (1b).

Some respondents have indicated that the increasing government pressure on civil society actors depends on the field of activity under discussion. These respondents agree that space has been shrinking for civil society actors who are active in areas of rights advocacy or who operate more confrontationally, aiming to hold the government accountable. However, civil society actors who operate in the philanthropy and charity sector or who focus on social service provision do not face growing pressure, according to these respondents, two of which are overseas organisations that have managed to register officially in China (1b, 3a, 3b).

The respondents also indicated what they believed to be the motivations behind the Chinese party-state’s approach towards civil society actors in recent years. To a certain extent, it is not relevant whether these beliefs expressed by the respondents truly reflect reality, as the perceptions of civil society actors themselves already influence their behaviour. Many of the interviewed actors see the Chinese government’s distrust of foreign influences as an important reason for its recent approach to civil society, especially regarding the implementation of the ONGO Law. Some respondents made specific reference to the Colour Revolutions and the Arab Spring and the role that the Chinese authorities believe foreign influenced civil society actors have played in these movements, while other respondents just generally stated that the CCP is afraid of foreign influences aiming to undermine the Party and the political system of

China (1a, 1b, 1d, 1e, 1f, 4a, 5a). The recent approach and perspective of the Russian government to civil society is also believed by some to have influenced the Chinese government in this respect (1a, 1b, 1d, 4a).

Other motivations identified by the respondents include the Chinese authorities' distrust about civil society in general. Respondents said they felt the authorities were suspicious of civil society because they believed it has the potential to ignite collective action, and therefore saw a need for better monitoring of civil society actors (1a, 1b, 1e, 4a). Furthermore, some respondents indicated that under Xi, the CCP has become more assertive in the sense that it believes that practices and experiences in other countries hold no valuable lessons for China anymore (1f, 5a) and that recent developments in China's civil society are part of a government supported 'going out' strategy of Chinese civil society actors (1a, 3b). A need for better regulation of civil society in general was also mentioned as a motivation for the Chinese government's recent approach (1b). Finally, it was pointed out by some respondents that they believed that an important driver behind recent developments was the aim of the party-state to transform China's civil society into a service provision sector (1a, 1e).

Implications for autonomy

The respondents also indicated what they believed to be the implications of the recent developments in China's civil society for the autonomy of their organisations as well as for civil society actors in China in general. Many of the interviewees, both local and overseas ones, indicated that it has become more difficult for NGOs to operate 'under the radar' in the relatively autonomous unofficial sphere of civil society, because this legal grey area has been closed or has at least shrunk to a great extent (1a, 1b, 1f, 4a). Many NGOs are pushed by the authorities to register themselves officially (2a, 3a, 4a), which will result in more government control over these civil society actors and less autonomy (1c, 1d, 1f, 2a, 2b).

Most of the respondents represent organisations who are not registered officially. Some of these are registered as commercial organisations, others are not registered at all. Many of these organisations are not able to register or are not willing to. Reasons given for being unable to register include the sensitivity of the field of activity (1a, 1f, 4a) and the difficulty in finding a supervisory agency for Overseas NGOs (1d, 3a). Mentioned motivations for being unwilling to register include not wanting to give up autonomy (1c, 1f, 2a, 2b) and the financial burden of such registration (1f). On the other hand, a representative of a registered overseas NGO indicated that its organisation did not have to make any sacrifices regarding its autonomy or activities in order to be able to register officially (3a). Generally speaking, however, the interviews suggest that it has become more difficult for civil society actors to operate in the relatively autonomous unofficial sphere of China's civil society, while there are also enough reasons for these actors to still refrain from official registration, which has implications for the impact that these actors can generate.

Implications for impact

The respondents indicated what the positive and negative implications are of recent developments regarding the impact that their own, and other civil society organisations, activities can have on China's society and policymaking. Starting with the positive implications, some respondents indicated that the ONGO Law improves the cooperation

between overseas NGOs and the Chinese government and helps to establish channels for communication between the two (1b, 3a). They said this law implies increased opportunities to influence policymaking and that the law strengthens the operations of overseas NGOs as they receive better legal status and certainty (4a). Similar arguments have been made regarding the Charity Law, which has a positive effect on the activities of Chinese charities (4a). Respondents have also stated that civil society actors in China have managed to find ways to negate and overcome the more negative consequences of the recent developments in order for these actors to stay active and relevant (1a, 1b, 1d, 1e).

Representatives of overseas NGOs who have been able to register officially indicate that their organisations can continue to operate and generate impact on China's society and policymaking. One way to achieve this is by undertaking relatively non-sensitive activities. For example, in the Dutch priority area of gender equality, focussing on tackling domestic violence is a relatively non-sensitive approach that has been applied by a registered overseas respondent for which it has received funding from the Dutch government (3a). Furthermore, another registered respondent indicated that aiming to generate social change through social service provision is also an applicable strategy in this respect, because providing such services can lead to rights advocacy too, as it creates a channel for feedback and dialogue with the government on certain issues (3b).

It is therefore possible to continue to generate impact in non-sensitive fields. This does, however, limit the influence that civil society actors can have overall. Several respondents, most of whom represent NGOs that are not officially registered, described this reduction in impact, stating that they and other actors can only continue to operate if they undertake activities that are not considered to be sensitive by the government, while being active in political matters has become more difficult (1a, 1d, 2b, 4a). In fact, the answers of almost all respondents who were not officially registered indicated that their or similar organisations faced increasing difficulties in generating an impact, as they could not continue or had to limit their activities because of recent developments (1a, 1b, 1c, 1d, 1f, 2a, 2b).

Apart from limited or aborted activities, other reasons why the impact of unofficial civil society actors has decreased that were mentioned by the interviewees include censorship of their produced content (1d), increasing difficulty cooperating with local governments or applying for government projects (1a, 2a, 3a) and the preference of sensitive actors to work on a smaller scale and out of sight of the government to avoid attracting any attention (1a, 1f). Even more drastically, some representatives of unofficial organisations have described how civil society actors have had to leave China, move their activities abroad, or cut their programs (1a, 1c, 1f, 2a).

Implications for international cooperation

The recent developments in China's civil society have also had implications for the cooperation between overseas and local Chinese civil society actors. First of all, an interesting finding that emerged from the interviews is that many respondents have indicated that the interest of local Chinese actors in receiving funding from and cooperating with overseas actors has decreased, especially as a result of the ONGO Law. These actors do not want to draw suspicion from the authorities or give them any reason to regard them as 'foreign tools' and others want to stay outside the eye of the authorities completely (1a, 1b, 1d, 1f). One actor stated that for their current partners this was not an issue, as there was already a high level of

trust, but that establishing new partnerships might suffer from this development (1e). Representatives of officially registered overseas NGOs have also indicated that before they managed to register, they saw reluctance from local partners to cooperate or receive support (3a, 3b).

However, according to registered overseas actors, once these overseas organisations are registered, the attitudes of Chinese actors towards them changed and their interest in cooperation and funding grew again, possibly becoming even greater than before (3a, 3b). Those who have not managed to register officially under the new ONGO Law, on the other hand, face difficulties in supporting their local partners (1a, 1c, 1d). One issue that has been highlighted by both registered and unregistered actors is that even when overseas actors are officially registered, they are still not allowed to fund many of the partners with whom they used to cooperate, because the ONGO Law states that they can only support local actors who are also officially registered (1a, 2a, 3a, 3b). This further restricts the areas in which overseas actors can operate and generate an impact, even if they are officially registered. One registered overseas NGO called this the biggest challenge of the ONGO Law (3b). Many unofficial local Chinese civil society actors therefore face large difficulties in receiving funds from abroad, since none of their overseas partner NGOs, registered or not, are allowed to support them.

As a result, some representatives of unofficial civil society actors, both local Chinese and from overseas, indicated that support from the Dutch government has become more important for their organisation or their local partners. Unofficial local actors can no longer receive funding from their overseas civil society partners because of the new ONGO Law and now rely more on the funds provided by the Dutch Embassy in Beijing (1d, 2a), to whom the new regulations do not apply.

Furthermore, some respondents have stated that they believe that Western donors, including the Dutch government, should think more creatively about funding China's civil society (1b, 1f). This is partly because it will become more difficult for the Dutch government to realise the impact that they are hoping for through their support of projects (1f). Several actors therefore suggest that it might be valuable to focus less on confrontational and sensitive issues and methods, such as human rights advocacy, and more on generating impact in less sensitive fields, including social service provision and socio-economic rights (1b, 3b), or to focus more on capacity building and increasing the resilience of civil society in general (1f). One respondent argued that supporting charities and other actors closer to the government, thereby capitalising on positive developments such as the Charity Law, is also useful in this regard, as these actors still have a different mindset from the government (1b).

On the other hand, it was also mentioned that it is specifically the advocacy and rights sector that needs supporting (1e). Others have indicated that the field of activity is not important, but that some tactics, such as calling for public action, need to be avoided in favour of less confrontational strategies (5a). Similarly, one respondent stated that he believed that it would be best to avoid public cooperation with civil society actors by the Dutch government, which could strengthen the idea of foreign forces in civil society aiming to undermine the Chinese party-state, and that cooperation should instead be more subtle (4a).

Discussion

The findings from the interviews confirm the complex and multifaceted nature of recent

developments in China's civil society as described by other authors. Many of the interviewed actors, especially those who have not officially registered, have noted a shrinkage of space for civil society and a growing pressure from the government. On the other hand, particularly those respondents representing organisations who have managed to register argue that in certain fields of civil society, such as social service provision, charity and philanthropy, recent developments have not been negative per se.

These findings reflect the image of uneven civil society development that was found in the literature. The official sphere of civil society, that in which apolitical, non-sensitive and social service providing grassroots actors are increasingly incorporated and receive more opportunities to generate an impact in exchange for their autonomy, has grown and is managed less through direct control mechanisms. The space for unofficial civil society actors, those who have been relatively autonomous and operating under the radar in more sensitive fields, such as human rights advocacy, has been shrinking, as the legal grey area is closing because of new legislation and increasing pressure from the authorities.

Subsequently, the interviews provide interesting insights into what the implications are of these diverging developments for the autonomy, impact and international relations of the civil society actors that the Dutch government has over the years attempted to incorporate into its human rights policy. The autonomy of these actors has almost unanimously decreased. Most of the respondents were not officially registered and had the choice of registering officially with the authorities, which would increase the control of the government over their activities, or continuing to operate unofficially, facing more scrutiny and pressure from the authorities. Both options result in less autonomy. The majority of the respondents have indicated that they chose the latter option, because they were unwilling or unable to register.

As a result of this development, the impact that many relevant civil society actors could generate on China's society and policymaking has decreased. It has become more difficult to operate under the radar in the unofficial sphere of civil society. Those who remained in this sphere have been forced to stop or scale down their activities as well as their cooperation with local governments, negatively influencing the impact these actors can generate. Actors who did manage to register, on the other hand, have been able to continue their operations and saw their opportunities to have an impact grow, for example through cooperating with (local) government, although often in less-sensitive areas.

The restrictions on international support and cooperation as a result of the ONGO Law have resulted in a lack of funding for unofficial local civil society actors, who can no longer be supported by both registered and unregistered overseas NGOs, making them more dependent on funding from the Dutch government. This has further restricted the fields in which international actors, registered or not, have been able to generate an impact. The interviews indicated that unofficial local actors, who work more often in relatively sensitive areas, are the ones who need the support from the Dutch government the most. Meanwhile the impact of those who are officially registered and active in less sensitive fields has grown, especially when compared to the diminishing impact of unofficial actors. All of this is in line with the general finding that China's civil society is undergoing two diverging but connected developments, in which more opportunities are created for apolitical, non-sensitive, social service providing actors, while relatively autonomous actors operating in more sensitive fields are facing a shrinking of the space in which they can operate.

Part Two: Implications for the Dutch human rights policy regarding China

Now that the current state of China's civil society has been discussed, including how the position and impact of relevant actors in civil society has changed since Xi Jinping's assumption of power, it is possible to bring in the perspective of the Dutch government. Therefore, this section of the report aims to analyse the implications of the recent developments in China's civil society for the continuation of the previous Dutch cabinet's policy of including civil society actors in its efforts to improve human rights conditions in China. However, before being able to discuss these implications, it is necessary to first understand in more detail the previous Dutch cabinet's human rights policy of cooperating with civil society actors in China.

I. Cooperating with civil society actors in China

The general worldwide efforts of the Dutch government under cabinet Rutte II to cooperate with civil society actors in order to improve human rights have been discussed in the overarching section of this research report. The human rights policy regarding China is roughly similar in focus and approach to what has been described there. In China, the Dutch government has also attempted to operate beyond a government-to-government level, aiming to incorporate civil society actors into its human rights policy, both bilaterally as well as in multilateral frameworks.

Bilateral level

According to the 2013 China policy of cabinet Rutte II, human rights are a core theme of the relationship between the Netherlands and China. Interestingly, this documents states that the freedom and space for Chinese citizens to express criticism has increased, placing issues such as environmental pollution and corruption higher on the agenda of the Chinese government and the CCP. While social-economic human rights had improved, this was not the case for civil and political rights. Concerns remained regarding the position of human rights defenders, minorities and the rule of law. In order to improve human rights in China, the Dutch cabinet therefore proclaimed that it would also focus on cooperating with partners outside of the Chinese government, including civil society actors such as NGOs (Dutch MFA 2013b, 2 and 5-6).

An important means by which the Dutch government has aimed to realise this in China has been to financially support those projects of NGOs that are focused on the core themes of the Dutch human rights policy through the Human Rights Fund. In recent years, about 1,8 million euros has been spent annually on such projects (Dutch MFA 2016a, 77; Dutch MFA 2016b, 88). In 2016, for the first time the Dutch government provided specific information regarding these projects. However, in the case of China almost all projects had been marked 'confidential' in order to protect those involved (Dutch MFA 2017a, 37-61). An NGOs which is mentioned by name in the Human Rights Reports is the Fair Wear Foundation, whose projects aim to teach workers in the textile sector about their rights (Dutch MFA 2016a, 33; Dutch MFA 2016b, 41). Another publicly-mentioned civil society actor in China which has received financial support is RNW Media. This organisation focuses on promoting freedom of

opinion and expression and access to information, especially targeting young people by deploying digital media (Dutch MFA 2016a, 23; Dutch MFA 2016b, 28-29; Dutch MFA 2017a, 22). An initiative by civil society actors in the field of LGBTI rights to award a prize to positive media coverage on homosexuality was also supported (Dutch MFA 2017a, 13).

Apart from financial support to the human rights projects of civil society actors in China, the Dutch government has also involved such actors in human rights related activities. On International Human Rights Day each year, the Dutch Embassy in Beijing has organized events about human rights, to which human rights defenders are invited (Amnesty International 2016, 30). In recent years, human rights films have been screened concerning issues such as censorship in relation to art. In 2015, the Embassy organized a photo exhibition accompanied by a documentary and presentations in cooperation with a local LGBTI organisation to mark the International Day against Homophobia, Transphobia and Biphobia (Dutch MFA 2016b, 62). In 2014, a group of LGBTI activists, experts, and bloggers from China was invited to visit the Netherlands during the Amsterdam Gay Pride, taking part in a seminar on sensitive issues (Dutch MFA 2016a, 13). The visibility of these forms of cooperation is considered to be important (Dutch MFA 2013a, 48)

Furthermore, the Dutch government has included civil society actors into the human rights diplomacy between China and the Netherlands. In 2014, the Minister of Foreign Trade and Development Cooperation attended a seminar with civil society organisations when she visited China (Dutch MFA 2016a, 32). The Dutch Minister of Foreign Affairs in 2015, during a visit to his Chinese counterpart, also met with Chinese human rights defenders to discuss the human rights situation in China. Furthermore, surrounding the 2013 Netherlands-China Human Rights Dialogue, as well as meeting government officials, the Dutch Human Rights Ambassador also met with academics, LGBTI activists, NGOs and other civil society actors. Chinese human rights defenders are also occasionally informed about the discussions that take place within the bilateral human rights dialogue, although Amnesty International does note that EU guidelines prescribe a more structural involvement of these actors in the preparation, follow-up and assessment of the dialogue (Amnesty International 2016, 20-25).

Finally, the Dutch government has over the years supported and cooperated with civil society actors through academic exchanges, by attempting to observe the trials of human rights defenders, and by offering such actors rest and respite in temporary housing (Amnesty International 2016, 31; Dutch MFA 2016a, 9 and 25-27).

Multilateral frameworks

The Dutch government likes to act within the framework of the European Union (EU) when it comes to its human rights policy regarding China, as it believes that the EU can convey a stronger message than its individual member states (Dutch MFA 2013a, 9). The EU also supports human rights projects in China, though the focus appears to be more on economic, social and cultural rights, according to Amnesty International (Amnesty International 2016, 49). The projects include empowering disabled children and youths, promoting the participation among elderly people in rural development with the aim of reducing poverty and improving health. Other projects involve supporting poverty reduction by protecting and providing services for Uyghur children as well as improving the living conditions of disabled people in the Tibetan Autonomous Region. There have also been projects empowering Chinese NGOs in the fields of poverty reduction and sustainable development and civil

society cooperation between China and Europe (Amnesty International 2016, 49-50).

Within the framework of the EU, the Netherlands has also pushed for including civil society actors in human rights diplomacy with China. For example, the Dutch government aims to widen the scope for the input of NGOs in preparing human rights dialogues and pushes for meetings between EU diplomats and human rights defenders. In 2014, the dialogues included a seminar with civil society actors. This seminar was replaced in 2015 by field visits during which representatives of the EU could meet with civil society actors. According to Amnesty International, it is unclear whether civil society actors were structurally involved in the preparation, follow-up and assessment of the dialogue (Amnesty International 2016, 32-38). Furthermore, the EU Special Representative for Human Rights has met with Chinese civil society actors, including NGOs, journalists, and academics (Amnesty International 2016, 39-40). The EU also aims to support at-risk human rights defenders with emergency grants, which are often provided through foreign NGOs, as well as by observing trials (Amnesty International 2016, 48-49). Within the framework of the United Nations, the Dutch government has also advocated for the involvement of Chinese civil society in protecting and advancing human rights (Amnesty International 2016, 54).

All in all, the Dutch human rights policy regarding China, in line with its worldwide approach, emphasises cooperation with civil society actors. NGOs play an important role in these efforts, as they are often financially supported, are involved in human rights events organised by the Dutch government, and are included in diplomatic visits to and discussions with the Chinese government regarding human rights (at least according to the intentions of the previous Dutch cabinet).

II. Conclusion: Implications and recommendations for the human rights policy of the Dutch government regarding China

Now that both the current state of China's civil society, as well as the efforts to include civil society actors in the Dutch human rights policy over recent years have been discussed, it is possible to move to the concluding section of this report. This section will analyse what the implications are of recent developments for the Dutch approach to human rights and how the new cabinet can best build upon the policies of its predecessor. Since these developments have had an impact on the civil society partners of the Dutch government, the new cabinet should reconsider its human rights policies regarding China in several ways.

Who to support?

First of all, as a result of the changing state of China's civil society and the consequences these changes have for relevant civil society actors, the new Dutch cabinet has to consider who it wants to include in its human rights policy. Since 2013, several developments have transformed the autonomy, impact, and international relations of different types of civil society actors. Those actors who operate relatively autonomously, under the radar, and in more sensitive areas have been facing increasing pressure from the government. The unofficial sphere of civil society, in which many of these actors have been active, has been slowly closing. Grassroots actors have been pushed to register themselves officially, something which would result in less autonomy. Those unwilling or unable to register themselves, because they do not want to give up their autonomy or were simply too sensitive,

have been facing more government scrutiny. As a result, the impact these civil society actors can generate has decreased. Cooperating with government institutions has no longer been possible, activities have had to be cancelled or scaled down, and funding from overseas NGOs, on which these actors depend to a relatively large extent, has dried up. Unofficial actors, who possess relatively high levels of autonomy and often are the ones who operate in the more sensitive human rights fields, have become more dependent on the support from the Dutch government and suffer from a decreasing impact.

On the other hand, the Chinese government, conscious of the indispensable role that many grassroots civil society actors play in social service provision, has attempted to incorporate these social service oriented, non-sensitive and apolitical actors into the official sphere of civil society. In order to register, such actors need to give up their autonomy to a certain extent, as they can now be more easily controlled by the government. In exchange, they have received several benefits that enlarge the impact they can have. Their legal status and recognition makes it easier to conduct their social service providing activities, while the opportunities to cooperate with the government, and thereby to influence its policies, have also increased. Furthermore, these actors can now legally receive funds from (registered) overseas partners or, if they meet the requirements under the Charity Law, from fundraising, which makes them financially stronger. Although these actors can often not work in more sensitive areas or apply relatively confrontational strategies, they can still generate impact that is relevant to the Dutch human rights agenda, but often in a broader sense. They can facilitate more participation by citizens, can check government behaviour, can promote more democratic policymaking, and can offer means for citizens to practise political skills and test political limits.

This raises the following question: what kind of civil society actors does the Dutch government want to support and include in its policies? The human rights policy of the previous cabinet stressed that it aimed to cooperate with actors who are explicitly non-governmental while at the same time being ‘change agents’. However, those civil society actors who can operate in the relative sensitive fields that are relevant to the Dutch human rights policy and possess relatively greater autonomy are increasingly struggling to have an impact. At the same time, those actors who can benefit from recent developments and can have a larger influence on China’s society and policymaking, though maybe less so in the specific focus areas of the Dutch government, have faced a loss of autonomy from the government. It appears that impact and autonomy are not two sides of the same coin. Maybe the Dutch government should consider what kind of actor needs its support the most. In this case unofficial and sensitive actors deserve to be helped first, as they are cut off from international funding and face increasing government pressure.

How to support?

Cabinet Rutte II also has to reconsider the ways in which it can best deliver its support to civil society actors in China. Since many relevant civil society actors have been facing increasing difficulties continuing to have an impact and thereby play a role as change agents, it could be helpful to approach civil society less as a means to realise certain human rights goals and more as an end in itself. If the Dutch government wants to generate progress in specific human rights areas through civil society actors, it needs to first ensure that these actors can indeed fulfil their role as change agents. The new cabinet should therefore consider whether it

would be a possibility to put more emphasis on strengthening the capacity and infrastructure of civil society itself. The Dutch priority area ‘Human rights defenders’ already aims to do this to a certain extent, but focuses primarily on specific actors and often on the safety of those who are at risk, instead of on civil society as a whole (Dutch MFA 2013a, 24-26; Dutch MFA 2017b, 6). Furthermore, in 2016, only about €210.000 out of the total of €1.8 million directed specifically to China from the Human Rights Fund went to this priority area (Dutch MFA 2017a, 37-61). Strengthening civil society as a goal in itself is a strategy within the framework of the Dutch development cooperation, which excludes more developed countries such as China (Dutch MFA 2014). However, such a strategy would also be very welcome here.

Furthermore, one of the outcomes of this study is that many Chinese civil society actors seem to believe that the party-state is particularly wary of actors who are supported by Western donors. This appears to be reflected by the reduced interest that many Chinese actors have expressed in cooperating with or receiving funding from overseas partners. This calls into question whether the relatively open way in which the Dutch government aims to promote human rights and civil society cooperation in China, which is partly motivated by the idea that increased visibility can protect human rights defenders, is effective (Dutch MFA 2013a, 25 and 48). Organising public events in cooperation with Chinese civil society actors, inviting and receiving such actors to human rights activities, and including them in official visits to China could potentially strengthen the Chinese government distrust regarding these actors and discourage those who prefer to stay out of the suspicious eye of the Chinese government from seeking support. Taking this into consideration, it could be valuable to consider more carefully when and where civil society cooperation would better be kept behind closed doors. However, since Amnesty International has stressed the benefits of public over ‘silent’ forms of diplomacy, which encourages HRDs and creates more opportunities for civil society to monitor what is going on, this is an issue which should be approached cautiously (Amnesty International 2016, 12).

Another issue relates to the fact that unofficial civil society actors in China are facing difficulties in receiving funding from overseas NGOs as a result of the ONGO Law, which prohibits any overseas NGO from supporting local actors who are not officially registered. As it appears that much of the funding from the Dutch government towards projects in China’s civil society runs through international actors, it would be valuable for the current cabinet to consider whether it is a possibility to fund local actors more directly, instead of using international organisations as intermediaries. Otherwise, the money might not reach the sensitive areas of China’s unofficial civil society that are potentially very relevant to the aims of the Dutch government.

A final issue that has come forward as a result of recent developments in China’s civil society is related to the stronger legal framework that the Chinese government has implemented regarding civil society. Whereas before, both unofficial civil society actors and overseas NGOs were often tolerated as long as they followed certain unwritten rules and could therefore operate in a legal grey area, the authorities now have aimed to close this unofficial sphere of civil society and have made certain actors and activities more explicitly illegal. This implies that the Dutch government should at least take into consideration the implications of supporting Chinese civil society actors who are now technically illegal.

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Appendix: List of interviews

Category 1: Non-registered Overseas NGOs

Interviews 1a, 1b, 1c, 1d, 1e, 1f.

Category 2: Non-registered Local NGOs

Interviews 2a, 2b.

Category 3: Registered Overseas NGOs

Interviews 3a, 3b.

Category 4: Registered Local NGOs

Interviews 4a.

Category 5: Others

Interview 5a.

Appendix 3:
Civil society cooperation in Russia

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Introduction to the Russian case

Civil society in Russia has experienced increasing pressure from the authorities since the mid-2000s, when the first legal constraints on independent organisations were imposed. The authorities accelerated their efforts after the 2011/2012 anti-government protests with the infamous foreign agent law, the law on undesirable organisations, and the creation of an increasingly hostile climate. All of these are used to selectively prosecute and intimidate civil society actors. The shrinking space for civil society has distinct implications for the Dutch foreign policy objective of advancing human rights abroad. Close cooperation with civil society plays an important role in the Dutch human rights diplomacy (Dutch MFA 2013, 17), especially in Russia, where the government is not receptive to critique of the country's human rights situation.

Before moving on to the structure of this case study, it is necessary to clarify what is understood by the term 'civil society.' The Oxford Handbook of Civil Society adopts Michael Walzer's definition, describing civil society as "the sphere of uncoerced human association between the individual and the state, in which people undertake collective action for normative and substantive purposes, relatively independent of government and the market" (Edwards et al 2011, 4). This is a useful definition in the context of this paper, because it limits civil society actors to those who are pursuing meaningful objectives, and these are exactly the organisations that the Dutch government aims to cooperate with. Besides, it emphasises the relative independence of civil society from the government, which is a relevant distinction in the Russian civil society landscape where many organisations are to some extent controlled by the state. Although the definition encompasses countless types of civil society actors, this paper will focus on those organisations that the Dutch government aims to involve in its human rights diplomacy: predominantly Russian NGOs advancing human rights.

This case study will examine how the shrinking civic space during president Putin's third term has influenced the relationship between the Dutch government and civil society in Russia. The first section of the case study will elaborate on the current state of civil society in Russia. It will do so by briefly describing the rise of civil society in Russia after the fall of the Soviet Union, and its development throughout the Yeltsin years. Next, president Putin's vision of civil society will be examined, together with the new legislation in the mid-2000s that was based on it. The biggest blow to civic freedoms however followed in 2012 with the introduction of the foreign agent law, which will be analysed together with its direct and indirect effects. The first section will end with an overview of the most important aspects of the current state of civil society in Russia after the 2012 foreign agent law: selective prosecution, the atmosphere of intimidation, a decrease in foreign funding, the dominance of state-controlled civil society, structural problems in the sector, the situation of human rights groups, and survival strategies.

The second section will first describe the official Dutch human rights policy towards Russia before the crackdown on civil society during president Putin's third term. The subsequent changes in the cooperation between the Netherlands and Russian civil society are then discussed. After elaborating on the ways in which the Dutch government has adjusted its support for civil society in Russia to the changing circumstances, a number of recommendations will follow. In the conclusion, an assessment of the extent to which the

relationship between the Netherlands and civil society in Russia has been influenced by the shrinking civic space will be made.

The first section of the case study is mainly based on academic literature. There has been a lot written on civil society in Russia in academia in the past two decades, and these books and articles provide enough information to paint a picture of the emergence of civil society in Russia and its current state. Academic literature is complemented with reports by think tanks and human rights organisations, as well as by information gathered from 11 interviews that were conducted for this case study. However, the latter are only used to fill in gaps in the literature and show real-life examples of the effects of legislation. The second section, about the implications which the worsened climate for civil society has on the Dutch human rights diplomacy towards Russia, draws heavily from the interviews I conducted. This is because not much information on the subject is available in the academic literature or in policy reports. I conducted interviews with Dutch policymakers, Russian and international civil society actors and other experts. Interviews with Russian and international NGOs working in Russia focused on themes around the effects of the foreign agent law on civil society in Russia. Meanwhile, interviews with Dutch policymakers and experts addressed the Dutch approach to human rights diplomacy with Russia. All interviews were qualitative and were approached inductively. During the processing of the interviews, it was taken into account that some interlocutors might have specific interests in the outcome of the report. This combination of academic literature, policy reports, and interviews paints a clear and complete picture of the implications of the Russian crackdown on civil society for the Dutch support for independent organisation in Russia.

1. The state of civil society

The emergence of civil society in Russia

Civil society is a relatively new phenomenon in Russia. In the Soviet Union, nonstate organisations were forbidden until the late 1980s, when Gorbachev's perestroika politics finally started to condone informal groups in society. After the disintegration of the Soviet Union, civil society developed rapidly in Russia. The economic meltdown combined with the quickly retreating state provided an impetus for the formation of informal groups – 70 percent of NGOs provided some type of social service that the state could no longer provide (Henderson 2011, 15). Many NGOs were in fact state-supported organisations that had originated in the Soviet period, and survived as independent organisations in Russia (Evans 2010, 101). The explosive growth of civil society in Russia in the 1990s was not only a result of the retreating state, but also of large amounts of Western support. International organisations and Western governments actively stimulated and financed the emergence of the Russian civil society sector (Chauhan 2007, 3). The number of civic groups increased steadily every year, but they were still weak and poorly connected with the political society (Henderson 2003, 41-42). In the Yeltsin years, although the legal framework was not fully developed and survival was hard for many organisations, a lot seemed possible.

Putin's vision on civil society

After Vladimir Putin took over the presidency, the relationship between state and civil society quickly changed. Putin sees the relationship between government and civil society as a partnership, not as one that is primarily adversarial (Evans 2010, 102; Belokurova 2010, 458). In this partnership, social organisations support the state and cooperate with it. They provide social services and function as channels of feedback to the government and, most importantly, they work on issues that align with the national interest. Organisations that work on goals that are not regarded as 'aligned with the national interest' are disadvantaged (Henderson 2011, 12). Many NGOs are to some extent controlled by the state and can be used as an organisational infrastructure to provide mass mobilisation in favour of the regime, if needed (Robertson 2009, 542). Since the beginning of his presidency, Putin has voiced suspicion of Western donors to Russian NGOs. In his State of the Union address in May 2004, he stated that "... not all of the organisations are oriented towards standing up for the people's real interests. For some of them, the priority is to receive financing from influential foreign foundations" (Daucé 2015, 61). One year later, he explicitly said that "we are against overseas funding for the political activities of NGOs in Russia. We understand that he who pays the piper calls the tune" (Sundstrom 2005, 13). In Putin's view, independent organisations should provide social services. NGOs with a political rather than a social focus are controlled by the West and are therefore suspicious, and they get systematically disadvantaged by the authorities. In sharp contrast to the nineties with their extremely free civil society climate, NGOs were now expected to be supporting the state. In the early Putin years, informal state-society relations were quickly redesigned to give the government the upper hand.

New legislation in the mid-2000s

In president Putin's second term, his view on civil society was converted into a new legal framework. This was in part a reaction to the so-called Colour Revolutions that took place in Ukraine, Georgia and Kyrgyzstan in 2004 and 2005. In these revolutions, disputed elections were followed by massive street protests, which led to the overthrow of leaders considered to be authoritarian. The Kremlin believed these protests to be supported or even planned by the West. This was not a scenario that the Russian leadership wanted to see repeated in their country. To prevent it from happening in Russia, laws that fostered government control over the foreign-funded NGO scene were imposed. The most important one was the 2006 NGO law. It introduced several requirements for independent organisations, many of which placed an increased administrative burden on NGOs. Organisations were now obligated to deliver detailed documentation of all their members and foreign donations to the authorities. Restrictions were imposed on donations from abroad. The law increased the number of documents that the government can request from NGOs and the government obtained the right to send representatives to NGO meetings, no matter how private they are (Crotty et al 2014, 1254). In addition, the authorities were given the power to shut down organisations that they regarded to be "a threat to the sovereignty, political independence, territorial integrity, national unity, unique character, cultural heritage, and national interests of the Russian Federation." Most of these terms were left unexplained, making arbitrary interpretation possible (Richter 2008, 4).

Selective implementation was an important consequence of the 2006 NGO law. The authorities used their new control measures mainly on NGOs that criticised the government or focused on human rights issues (Belokurova 2010, 466). The law led to the closure of thousands of NGOs which were not able to meet the new administrative requirements, although many of these had been inactive or poorly organised. For this reason, the law has been interpreted by some observers as an incentive to professionalise the civil society sector (Stewart and Dollbaum 2017, 211). There is little consensus on the actual impact of the 2006 NGO law on civil society. Many scholars see it as a vehicle to foster government control, but others argue that it has brought greater transparency to Russia's third sector and eradicated a number of corrupt organisations (Gilbert 2016, 1554).

There is however no debate over the assumption that the new legislation has created an incentive structure for NGOs to cooperate with the regime. Since one of the law's objectives was to eradicate overseas funding for civil society, this has left the state as the primary financier. For this aim, a system of federal and regional Public Chambers was created. The federal Public Chamber is supposed to serve as a mediating agent between state and civil society. It is responsible for administering federal funding to NGOs, which consists of quite large sums of money. Organisations can get access to these funds on the basis of competitive grants. However, grants are predominantly awarded to social organisations and are extremely hard to access for groups that are critical of the authorities, and the allocation of the funds lacks transparency (Evans 2010, 106; Crotty et al 2014, 1256). On balance, the new legislative framework in the mid-2000s created a system for regulating civil society that favours groups that do not oppose the regime.

Foreign agent law

The authorities accelerated their efforts to control civil society after the 2011/2012 anti-government protests. These massive demonstrations had shown the threat that collective mobilisation posed to the regime. The Kremlin became even more wary of independent organisations, and once again accused the West of orchestrating the protests. The Russian government's subsequent crackdown on civil society during president Putin's third term started with the adoption of the so-called foreign agent law in July 2012, right after Putin was installed as president again. According to the law, organisations that engage in political activity, the definition of which is exceedingly vague in the text, and receive foreign funding must refer to themselves as 'foreign agents' in their official documents and publicly available information. In Russian, the term 'foreign agent' has strong connotations with Cold War rhetoric, and is equated by many people with 'traitor' or 'spy' (Christensen and Weinstein 2013, 78; Daucé 2015, 58; Stewart and Dollbaum 2017, 210). These organisations are also obliged to follow new burdensome administrative requirements and can be subjected to unannounced inspections. In 2014, the Justice Ministry was authorised to register groups as foreign agents without their consent. A year later, a follow-up law gave prosecutors the power to declare any NGO 'undesirable' if it was believed to present a threat to Russia and then to shut this NGO down. In March 2017, 102 NGOs were registered as foreign agents, many of which are among the most well-known organisations in the country (Brechenmacher 2017, 19).

The real problem however is not the number of NGOs on the foreign agent register, which is relatively low, but the selective enforcement of the new legislation. Organisations that are critical of the regime are overrepresented among those that are registered as foreign agents, and they are also targeted for inspections and marginalised by questionable legal measures (Gilbert 2016, 1572; Davies et al 2016, 139). The law thus appears to be not only an instrument for repression, but also an impetus for NGOs to practice self-censorship. Since 2012, several NGOs on the foreign agent register have dissolved or given up their foreign funding (Flikke 2015, 6; Stewart and Dollbaum 2017, 211). Several international donors have been expelled from the country, limiting external funding flows to NGOs and weakening the NGO community. The director of a Russian NGO that has been labelled a foreign agent explains what some of the effects are on the organisation: "We lost almost all our donors, so we cannot finance all our activities anymore. Three years ago we had around fifteen projects per year, now we only have two or three projects. Financing is now a big administrative cost, because a foreign agent has to report eight times a year. Before it was once per year. And then there's an obligatory audit that is very expensive. It's around 1600 euros. And since we have lack of financial resources because of the departure of foreign funders, it's a big burden on us. It has affected us morally, it's quite a big stress. It was necessary to cope with it all" (Interview 5). The unpredictability of inspections and lawsuits has been accompanied by a hostile disinformation campaign in the media, equally hostile government rhetoric, and street violence by pro-Kremlin groups (Crotty et al 2016, 1263; Brechenmacher 2017, 19), all creating an intimidating climate for civil society.

The current situation

With the introduction of the foreign agent law, the Russian authorities have created a civil society climate that is increasingly hostile towards organisations that do not support the state. The law has more objectives and consequences than meet the eye. This makes it worth examining all the different effects of the law on the current state of civil society in Russia, paying special attention to the situation of human rights organisations and the strategies to survive that many NGOs have developed.

Selective prosecution

The Russian authorities use their new legal framework for independent organisations not to systematically oppress civil society, but to selectively prosecute civil society actors opposing the government. Generally, the most prominent human rights defenders do not face prosecution, but defendants seem to get picked at random. This is made possible by the lack of clarity in the law, which allows latitude in implementation. A Dutch journalist focusing on Russia affirms this by pointing out that the human rights NGO Memorial has not been shut down, because the organisation is too famous. This journalist also explains that legislation regarding civil society is so vague that even organisations that try to follow all the regulations can still be fined or prosecuted for minor mistakes in their administration (Interview 1). This sends the message that anyone could be next, which is meant to intimidate and demoralise NGOs working on politically sensitive issues. It also serves as a reminder that large-scale repression remains possible at all times (Brechenmacher 2017, 15). A look at the Russian Ministry of Justice NGO registry tells that over 220,000 domestic NGOs are registered in Russia. Even accounting for the fact that some of these groups included on the official registry may be inactive, this shows that a small minority of NGOs have been labelled ‘foreign agents’ – about 0,08% of all officially registered organisations. Almost all of these NGOs work on human rights, environmental issues, media and freedom of information, and civil society development (Justice Ministry RF). Many of them have closed as a result of the label, while others are struggling to keep afloat without the support of funding (Interview 7). Other evidence of selective prosecution is the wave of inspections that were carried out of NGOs most critical of the government directly following the adoption of the foreign agent law (Stewart and Dollbaum 2017, 211). Another effect of the selective prosecution of activists is that all situations are so different that it is hard for groups to form a united front of protest – they are all trying to solve their individual problems (Daucé 2015, 70). But most of all, these tactics serve as a means to intimidate organisations and as an impetus for NGOs to put an end to activities that are adversarial to the government.

Atmosphere of intimidation

In addition to coercion via legal measures, the authorities use other methods to create an atmosphere of intimidation. Hostile government rhetoric has been discrediting foreign-funded civil society organisations since the early 2000s, but since the passing of the foreign agent law these statements have been accompanied by an extensive disinformation campaign in the state media. NGOs labelled foreign agents are portrayed as traitors acting on behalf of Western governments. High-profile organisations are targeted with undercover investigations meant to expose them as destructive to Russia. Subsequently, this propaganda campaign fuelled anti-

civil society sentiments among pro-Kremlin groups. Several foreign-funded NGOs have had their offices vandalised or suffered attacks in the street (Brechenmacher 2017, 12). According to the director of a Russian human rights NGO, one of the biggest effects of the foreign agent law is the increase in violent attacks and intimidating actions of patriotic groups against civic activists. The lack of an adequate reaction by state authorities and the complete absence of trials or investigations into these incidents are perceived by these groups as a green light for further violence (Interview 4). In this climate, with less and less people trusting human rights organisations, it has become harder for NGOs to establish relations with the authorities and connect to society.

Decrease in funding

A direct effect of the foreign agent law is the sharp decrease in civil society funding from abroad. The new legal environment has made many foreign donors scale back their operations in Russia. The largest donations to civil society in Russia came from the United States (Sundstrom 2008, 5), and American organisations were hit the hardest by the new legislation. Seven of the most prominent American civil society funders were formally outlawed, including USAID, which had invested many millions of dollars in Russian civil society, peaking at US\$65 million in 2009 (Brechenmacher 2017, 22). A European External Action Service official stated that the Russian government is preoccupied with civil society support from the Americans. “They have made it very difficult for US donors and the US government to support Russian NGOs in the past four, five years. Whereas EU money and EU support... Well, they don’t like it a lot, probably, but they accept it” (Interview 9). Simultaneously, some Russian NGOs have started to reject foreign donations in order to avoid being labelled foreign agents. The law pushes NGOs to search for domestic sources of funding, but private foundations and charitable giving are not yet developed in Russia, which leaves a gap in funding. Many organisations were forced to close down as a result, or have had to reduce their number of employees and activities. The foreign agent law has thus weakened the civil society sector by limiting its resources. The withdrawal of major foreign donors, combined with a business sector that has become increasingly less interested in supporting NGOs, has left civil society more dependent on state funding and private donations (Stewart and Dollbaum 2017, 209). This has led to a situation where the total number of NGOs is not decreasing, but most new organisations have close ties to the state and are not independent (Brechenmacher 2017, 22).

Co-optation

To close the gap in funding caused by the departure of many international donors, the Russian government has stepped in. In his campaign for the 2012 elections, President Putin had promised more support for civil society. After his re-election, the government budget for civil society support rose dramatically, with the presidential grant programme even reaching 2.7 billion rubles in 2014. The grants of this programme are distributed through competitive project-based calls for bids that provide funding to approximately one thousand NGOs per year (Stewart and Dollbaum 2017, 211). This system, in which grants are given to projects, enables the state to control the activities of organisations. If an NGO proposes a project that concerns the state, it does not get funding. When organisations come up with project

proposals that are in line with the state's objectives, they do receive grants. This is illustrated by the observation that human rights monitoring never gets any government funding, but instead grants are given for police reform, which benefits the state as well (Daucé 2014, 246). In general, the grants go primarily to NGOs seen as close to the authorities, while human rights groups receive little funding.

This partly changed after a special competition was launched in 2013 for NGOs with a human rights focus. A look into the awarded grants shows that some organisations that are highly critical of the authorities do get awarded relatively high sums of money. In the first year of the competition alone, millions of rubles were awarded to the independent election observation organisation Golos, human rights NGO Memorial and even to the outspoken Putin critics from the Moscow Helsinki Group (Stewart and Dollbaum 2017, 212). With this approach, the government places NGOs in a state of conflict, torn between opposing the government for its restrictions on civil society and cooperating with it in order to exist. These contradictory measures of large grants combined with harsh legislation seem to be a choice to employ a carrot-and stick approach towards human rights groups, to make NGOs more willing to adhere to the new rules, and to show the world that the civil society climate in Russia is not as bad as it seems.

However, most financial support still goes to organisations loyal to the government, which are mainly service-oriented NGOs. According to one interlocutor, one part of civil society lives in paradise, and the other part lives in hell. "Socially oriented NGOs and providers of social services are supported quite well by the state. There are many more possibilities for them now than there were three, four years ago. NGOs that are involved in advocacy on the other hand and especially human rights NGOs see their opportunities shrink" (Interview 5). Organisations completely independent from the state get funding occasionally, but they generally compete with state-supported groups for resources on a highly unequal basis. Moreover, presidential grants give the authorities more control over the sector, since they come with reporting requirements that increase government oversight over the winning NGOs activities (Brechenmacher 2017, 27). The unequal environment is aimed at dividing civil society into organisations working together with the government, and organisations opposing it. The first group gets full access to funding, political connections and influence, when the second group must bring everything to play to receive financing for its most basic activities. This way, NGOs critical of the government have slowly but systematically been pushed out of the civil society landscape, either by dissolution or by being forced to cooperate with the authorities closely and let their opposition to the government go. For example, some groups had to weaken their public criticism of the government in order to avoid being disqualified from future funding rounds. Both ways, critical organisations are being replaced by more regime-friendly NGOs (Gilbert 2016, 1553). There is little doubt that this system is designed to favour NGOs that listen to the authorities and pressure critical NGOs to comply with the authorities.

Structural problems

Apart from state repression, Russian civil society actors also face a number of structural problems, causing them to occupy a weak position. The first one is Russian society's general mistrust of NGOs. The whole idea of voluntary associations is not understood and mistrusted

by the population, which is partly a legacy of the state's monopoly over public life in Soviet times. The polling agency TsIRCON found that the number of people active in civil society in Russia has stagnated since 2009, while attitudes towards NGOs have deteriorated since then (FRGO, 2013). The disinformation campaign against foreign-funded organisations has certainly contributed to this. This mistrust makes it hard for civil society to attract new supporters.

Another challenge that NGOs face is the lack of enthusiasm in public participation by the Russian people. Karine Clément summarised the sociological polls on this issue: “Russian society as a whole is characterized by weak citizenship, lack of trust in social relationships, and a limited sense of belonging to a single society, not to mention civil society” (Clément 2008, 68). This manifests itself in a low number of Russians who take part in voluntary activities. Their reluctance to participate in political and social organisations has been researched by many scholars. The most detailed account was written by Marc Howard, who emphasised that countries with a Communist past generally have much lower levels of membership in various organisations than other post-authoritarian countries (Howard 2003, 67). Other causes of the Russian nonparticipation in collective action are a disadvantageous economic situation and the absence of a middle class (Belokurova 2010, 460). When you have to use all your time and resources to make a living, there is no opportunity to get involved in civil society.

Then there is the foreign funding that widens the gap between activists and society. Many Russian NGOs spend all their time and energy on obtaining foreign grants instead of attracting new volunteers. For this reason, the Russian people do not know much about the work and importance of civil society (Sundstrom 2008, 5). Moreover, the agendas of NGOs that received foreign support have shifted over time to reflect the priorities of the donors, rather than the needs of the population they serve. There is a focus on Western values such as gender equality and the environment, rather than the values of the majority of the local population. Russian organisations see the Western donors as their audience, not the Russian population. This has led to situations where NGOs had high-tech computers in their offices, perfect looking newsletters and paid staff, but the people they claimed to represent were absent (Chauhan 2007, 12). Accordingly, funding from abroad has created a civil society distanced from Russian society.

Human rights groups

Human rights organisations, which is the group of NGOs that the Dutch government aims to include in its human rights diplomacy with Russia, were hit the hardest. Before the foreign agent law, the lion's share of foreign funding went to human rights groups, so they lost the most in terms of resources and capabilities. Because they are the most critical of the regime, they also reported the biggest declines in membership, media coverage and participation in events (Gilbert 2016, 1572). Their position was further weakened by the reluctance of many social organisations to openly cooperate with them, out of fear of damaging their own reputation and access to government funding (Brechenmacher 2017, 24). According to the Russian Justice Ministry's NGO database, as of January 1, 2018 there have been 170 organisations historically labelled foreign agents – many of them have since been removed from the list either because of closure or by successfully appealing the label. Out of these 170

organisations, human rights groups are the most affected, with a total of 64 NGOs in the database. The second biggest group is environmental organisations with 29 NGOs labelled foreign agents (Justice Ministry RF). This data shows that human rights organisations are the most targeted by the law. An expert on state-society relations in Russia adds that human rights NGOs represent a small portion of all registered NGOs in Russia, meaning their dominance on the foreign agent list is not an indication that there are simply more human rights NGOs than other listed groups in Russia. This expert sees two reasons why human rights groups are disproportionately targeted by the law. “First, they have a history of foreign funding and support, and may have received more foreign funding than some other types of groups. Second, the work of human rights organisations often challenges the state or state institutions, especially those that work on the rights of prisoners, soldiers, or migrants. These activities could be seen as threatening to powerful actors or state policies, increasing the likelihood that they will be targeted by the law and their activities will be considered ‘political’” (Interview 7).

Survival strategies

Russian NGOs have developed many strategies to survive under the new legal framework. They have shifted to alternative funding strategies, relocated abroad or closed down to continue their work in different ways, and many NGOs have adopted new organisational structures. Organisations that have given up foreign funding replace these grants with either government funding, private sector grants, or crowdfunding. As stated before, Russian state grants are awarded mainly to government-friendly organisations, and private sector funding is not yet developed in Russia. Hence, many NGOs have turned to crowdfunding. Crowdfunding techniques are fairly new in Russia, where only a small part of the population is involved in civil society or sympathetic towards it. Anticorruption activist and politician Alexey Navalny was one of the first activists to use crowdfunding in order to fund his anticorruption NGO. He manages to reach large audiences through social media and his approach has been copied by many other activists in Russia. Crowdfunding is far from a reliable source of income for most organisations in Russia, but the development of this technique is a remarkable shift in approach for the Russian civil society, that had been heavily dependent on foreign funding before (Brechenmacher 2017, 27).

Some Russian NGOs have relocated abroad or registered as international organisations to circumvent the foreign agent label and the limitations that come with it. Others have opened subsidiaries abroad through which foreign funding can be transferred. However, most NGOs affected by the new legislation have not left the country, but have searched for new organisational models. There are plenty of models in use. Some groups have chosen to close down and re-establish themselves, because new NGOs are exempt from inspections during their first years of existence. Others have given up their official status altogether and continue their work as unregistered groups. According to one interlocutor, being an NGO is now simply not the most effective way to achieve something in Russia. “It is much better to take another legal form. Or to not take a form at all, but just form an informal group of people and do things together” (Interview 9). There are also organisations that have liquidated their formal NGO status, but have then re-registered with a for-profit business to get around the law. This model is particularly attractive to lawyers, because it makes it possible for them to

continue to engage in pro bono activities while providing paid services to others. Some NGOs use this technique to keep receiving foreign funding, since the foreign agent law does not apply to commercial entities (Daucé 2015, 73; Brechenmacher 2017, 27; Interview 7). A large number of NGOs have not changed their legal status, but have instead changed their approach. The director of a Russian NGO explains that all the NGO's programmes in cooperation with the state were stopped after the organisation was put on the foreign agent list. "Doors are simply closed. As a result we have to reconsider our work approach and target groups. Since we do not have direct contacts with authorities anymore, our main target audiences are now the legal community and society. We started fundraising campaigns but so far we are not much successful in it" (Interview 4). The trend towards more informal organisational structures coincides with the rise of grassroots initiatives in the country. These are groups that often focus on local issues and are established by Russians who had no connection to civil society in the past. Many of the people interviewed for this report have called the emergence of grassroots groups one of the most positive and promising developments in the Russian civil society landscape (Interviews 2, 4, 5, 6, 9, 10).

2. Implications for the Dutch human rights policy

Dutch human rights policy towards Russia

The Dutch human rights policy has three priorities: human rights defenders, equal rights for LGBT people, and women's rights (Dutch MFA 2013, 23; Dutch MFA 2017, 6). To achieve progress in these areas, the Dutch government not only engages in dialogue with other countries, but also cooperates closely with all relevant civil society actors (Dutch MFA 2013, 17). In the case of Russia, it does so mainly by funding projects and organisations through the Human Rights Fund. In addition, the Netherlands organises coordination between donors, maintains regular contacts with Russian human rights defenders and monitors their lawsuits. Dutch diplomats exchange best practices in this area with colleagues from other European countries. The Dutch government also aims to promote 'people-to-people' contacts through cultural and scientific institutions (Koenders 13/05/2015). Out of these approaches, openly supporting Russian human rights organisations to encourage and invigorate them, is the most important, according to a high-level official in the Dutch Ministry of Foreign Affairs. In the view of this official, providing moral support to civil society is the most effective way to advance human rights in oppressive states (Interview 3).

The Dutch efforts to advance human rights in Russia multilaterally, through the EU, UN, OSCE, and other forums, are equally significant. A lot is done on the European level, since the EU can speak with a more powerful voice than the Netherlands alone, and has more financial resources and instruments to advance human rights in other countries. The Netherlands is particularly focused on involving civil society in the European human rights dialogues (Dutch MFA 2013, 19-20), which signifies the importance of civil society in the eyes of the Dutch policymakers. An example of a civil society platform financed by the EU is the EU-Russia Civil Society Forum. The Forum is a network of NGOs from both Russia and EU countries that aims to strengthen cooperation between civil society in Russia and the EU, on the basis of shared values such as human rights and rule of law. The organisation has been growing in the last few years (Interview 10). The EU supports civil society in Russia and the EU-Russia Civil Society Forum financially through the European Instrument for Democracy and Human Rights and the Civil Society and Local Authorities Programme (Sergunin 2017, 46). Another multilateral organisation through which the Netherlands advances human rights in Russia is the Council of Europe, of which Russia is a member. Russia's membership means that the country can be held accountable to the European Convention on Human Rights, which provides the European community with another instrument to improve the human rights situation in Russia. In all multilateral organisations, the Netherlands tries to put an emphasis on its own key areas and the involvement of civil society in human rights diplomacy.

Effects of the shrinking space on the relationship

The shrinking civic space in Russia has affected the relationship between the Dutch government and Russian civil society in various ways. Most importantly, it has forced the Netherlands to be more inventive in the implementation of its human rights policy. In its support for civil society, the Netherlands has simultaneously become more cautious and more creative. A Foreign Affairs official explains that, for many of the Russian organisations and projects which the Netherlands supports, the conditions of support have been adjusted.

Previously strict criteria and rules have been relaxed. For example, organisations that are not officially registered do receive support now, which would have been unimaginable in the past (Interview 11). A representative of a Dutch NGO that promotes human rights notes that the cooperation with Russian civil society not only engages registered NGOs but also other legal entities and natural persons who work together with these NGOs (Interview 10). This is likely also the case for the cooperation between the Ministry of Foreign Affairs and Russian civil society. Moreover, much more support is now provided ‘under the radar’: conference venues are paid for, human rights defenders are invited to short stays in the Netherlands and training courses are organised, all without any publicity (Interviews 2, 11). In recent years, the Ministry of Foreign Affairs of the Netherlands has learnt that one of the most effective methods to reach a large number of people in Russia with the Dutch human rights message is via arts and culture. In practice, this means that Russian film festivals or art exhibitions are sponsored when, for instance, they touch on women’s rights or LGBT issues. Other changes are that smaller funding grants are awarded, and the names of organisations that receive Dutch financial support are no longer openly announced (Dutch MFA 2017, 52-53; Interview 11). Measures like these to protect Russian NGOs and the inventive new ways of providing support mentioned above are closely coordinated with Russian organisations, which are continuously consulted on their needs and preferences. Because of the new, more intense form of cooperation, the Dutch government and Russian civil society have in a sense grown closer together.

The restrictive legislation and hostile climate have made it less attractive for Russians to work in civil society or to support independent organisations. This has likely led to an increased dependence on Western support (Interviews 6, 10). Additionally, the foreign agent law and additional legal measures have primarily thwarted American efforts to fund civil society in Russia. European grants and programmes are much less affected, and have thus become more important for Russian NGOs, that have seen their funding sources decline with the departure of American donors (Interview 9; Brechenmacher 2017, 22). All the people interviewed for this study asserted that in general, Russian NGOs focusing on human rights have not become less interested in cooperation with foreign actors. A small number have, but the majority are still interested in receiving international support, many relying on European funding sources. They have simply accepted their marginalisation or their foreign agent label and attempt to continue their work, for which funding from sources such as the Dutch Human Rights Fund is essential (Interviews 4, 5, 6, 9). According to one interlocutor, the availability and requirements of foreign support have led to “an artificially created professional NGO sector within civil society, not corresponding to the state of development of the society as a whole” (Interview 10). For this reason, many civil society support programmes currently focus on helping Russian organisations to extend their range, by developing communication strategies and organising social media trainings. This shift is also a reaction to the emergence of grassroots movements and crowdfunding campaigns in Russia that followed the passing of legislation that restricted foreign funding.

The more restrictive civil society climate has had negative consequences for the relationship between the Dutch government and Russian civil society. Many NGOs would like to see more explicit support by the Dutch government in its public statements (Interviews 5, 6). The Dutch government in turn has become more cautious about the issuance of strong

public statements and has shifted to quieter diplomacy. Tough statements are counterproductive, say both a Dutch foreign policy official and a European External Action Service official (Interviews 9, 11). The Dutch government has economic interests in Russia which it does not want to risk by taking a confrontational stance against the Russian government. This circumstance occasionally leads to friction between the Netherlands and the Russian civil society organisations it supports.

Other sources of tension between the two parties arise over political pressure from the Dutch parliament to take action against the shrinking civic space in Russia. Parliament often pressures the Ministry to emphasise themes that are popular with the Dutch public and to commit itself to these human rights in specific ways. This has prompted responses by the Dutch government that Russian NGOs would rather have avoided. An example is the “one-sided focus on LGBT issues” that multiple interlocutors mention. “In the Netherlands, we want to see LGBT organisations in Russia participating in gay parades and other public events, but most Russian organisations feel uncomfortable with that. They find it counterproductive, but the Ministry is pressured to support such initiatives by Parliament and public opinion in the Netherlands,” stated an expert on Dutch-Russian relations who has worked for the Ministry of Foreign Affairs in the past (Interview 2). This has troubled the relationship between the Dutch government and certain segments of Russian civil society.

Recommendations

The Dutch response to the worsened civil society climate in Russia described in the previous section appears to be largely adequate. The Dutch approach to supporting human rights activists in Russia has proven to be flexible. Dutch diplomats and policymakers have become more creative and have found new methods to advance human rights in Russia. However, some points of improvement and issues that require some more thought can be identified. Based on these points, a few recommendations will be made to further improve the Dutch human rights diplomacy towards Russia.

Infrastructure of civil society

First, more can be done to support the infrastructure of civil society in Russia. Foreign funding for concrete programmes advancing human rights is quite accessible for Russian NGOs, but recourse to support the development of institutions and systems are largely absent. In Russia, the infrastructure for civil society is underdeveloped. Without strong institutions, umbrella organisations, and a clear structure of the sector, the impact of individual organisations is small. And with project-based funding, civil society actors can accomplish the goals of their organisation, but organisations themselves cannot develop and grow. It is of course impossible to achieve the development of a civil society infrastructure from abroad, but a number of things can be done to stimulate it. To begin with, more funding could be made available for NGOs with the objective of professionalising these organisations, or helping their development or growth. Since most Russian NGOs would be interested in receiving this form of support, it could be complicated to decide which requests to approve. An option could be to provide this form of support to organisations that have in the past successfully carried out projects with Dutch funding. These NGOs have proven that they possess the skills needed to reach their human rights objectives, and for them to have a bigger

impact, support to develop themselves is welcome. When several individual NGOs in one field become more professional, closer cooperation is a logical next step. A condition for receiving this sort of funding should be a special focus on making the connection to society, so that civil society will not become an extremely professional sector that is completely separated from the people it should represent. Special attention should be given to NGOs that focus on cooperation within civil society and NGOs working on new techniques that benefit the whole sector: organisational models, crowdfunding techniques, social media/communication strategies and membership recruitment are some examples. Supporting the development of civil society actors strengthens the sector as a whole, and benefits the long-term health of the sector.

Location of changemakers

It is also important to keep assessing where exactly the changemakers in society are. The Dutch government is cooperating with Russian NGOs because it sees them as changemakers, but the harder it becomes for Russian NGOs to operate, the smaller their impact will be. In the current circumstances it might be the case that the real changemakers in Russia are working in GONGOs, or in the very influential Orthodox Church. It is obviously problematic for the Dutch government to cooperate with these organisations, apart from the fact that GONGOs and the Orthodox Church generally receive more than enough state funding. Direct support for organisations close to the Russian state might therefore not be the best option for the Netherlands, but developing some relations with these actors could be taken into consideration. The Orthodox Church can also play a bigger role in the Dutch human rights diplomacy because it published its own human rights concept in 2008 and patriarch Kirill has on multiple occasions said that while he thinks that homosexuality is a sin, gay people should not be punished or discriminated (Pink News, 23/12/2009). The Netherlands could try to find common ground by comparing the Orthodox Church's human rights concept to the Universal Declaration of Human Rights, or by calling patriarch Kirill out on the Orthodox Church's statements and actions that contradict his belief that the LGBT community should not be discriminated against. The possibility that the real changemakers are working in GONGOs and the Orthodox Church is undoubtedly an issue to which close attention should be paid, and an issue for which the pros and cons require regular judgement and evaluation. Another serious matter to keep an eye on is that influencing policy at the local level is often much more successful than at the national level in Russia. A number of interlocutors mention that local NGOs can bring real change in their communities, whereas it is much harder for NGOs to have a significant impact at the national level (Interviews 2, 5, 6, 7, 10). As one interlocutor puts it: "the national legislation and debate are completely stuck. On quite a number of local level issues there is less interference from the state, which makes more possible" (Interview 10). It is important for the Dutch government to keep exploring these options.

Development of a human rights culture

The Netherlands should also invest in the development of a human rights culture in Russia. In Russia, such a culture does not exist yet. Russians are preoccupied with their own problems and generally do not think in terms of broader, universal rights. The Dutch government can assist in laying a foundation for a human rights culture both by setting up educational

projects, and by connecting to themes that Russians deem important. By prioritising issues that Russians encounter in their daily lives, such as corruption in the education and health systems or domestic violence, a sense of active citizenship and appreciation for human rights can grow. When some form of a human rights culture is established in Russia, new initiatives to advance human rights will come from citizens themselves, and they will be more easily financed by the Russian people themselves. If the Netherlands starts reasoning from the viewpoint of the average Russian, to engage him in human rights, instead of proceeding from the values that the Dutch public would like to see promoted, more will be achieved, especially long-term (Interviews 4, 10). Special attention should thus be given to socioeconomic human rights, for which there is currently not much space in the Dutch Human Rights Fund. The emergence of a shared understanding of human rights can also be promoted by human rights education, by putting human rights on the agenda in cultural, academic and economic contacts, and by awarding scholarships to Russian students for human rights related programmes abroad.

Unilateral or multilateral support?

A question that arises in many discussions about support for civil society is whether the Netherlands should do more through the European Union instead of unilaterally. The Netherlands is currently one of the most active countries in the EU human rights activities, but there are voices that say that even more can be achieved when more is undertaken multilaterally. In terms of public statements, this is undoubtedly true. A statement of condemnation issued by the EU is stronger than an equivalent Dutch statement. The current state of relations between the Russian government and the EU might aid the possibilities for the EU to issue strong public statements against the Russian government, since friendly relations make it harder to criticise a government (Interview 9). A shared responsibility makes it less risky for individual member states to call the Russian government out on human rights abuses. In direct support for civil society however, the Dutch Human Rights Fund seems to be at least as effective as EU initiatives. According to a representative of a Dutch NGO supporting civil society in Russia, Russian NGOs prefer the Dutch Human Rights Fund to European equivalents. They favour the smaller grants that the Netherlands hands out, that come with less procedures and bureaucracy. Many Russian organisations are too small to apply for the bigger EU grants and do not have the capacity to go through the European application and evaluation processes (Interviews 2, 10). Operating on a smaller scale, it is also easier for the Netherlands to customise the support that is given to different organisations and adjust where needed. Unilaterally, the Netherlands can also prioritise themes that are popular with the Dutch public, which leads to more approval from society. A complication of EU support for civil society is that human rights work at the European level has become more difficult because certain member states have taken a quite authoritarian course themselves. It is important to find a balance between unilateral support and EU support, but given the current situation it seems best to keep prioritising support through the Dutch Human Rights Fund.

Connection to international political institutions

A strategy that could be used to support Russian civil society in a slightly different way is to help Russian organisations make a connection to international political institutions. An effective way for Russian NGOs to fight for their rights and improve their situation is to appeal to institutions such as the European Court of Human Rights, the European Commission, or the United Nations. Many Russian NGOs are interested in doing this (Interviews 4, 7), but they do not have the legislative knowledge or capacity to appeal to these institutions. The Dutch government could assist by providing legal help, training courses or seminars around this topic to empower Russian NGOs and spread awareness about the option of appealing to international institutions. More communication and cooperation between Russian and foreign NGOs would also help Russian organisations to better understand the international legislative framework. Such communication and cooperation can be stimulated by the Dutch government. An alternative strategy could be the Netherlands itself raising issues important to Russian civil society in these institutions. Even when the results are disappointing, some international media attention and the pressure of international public opinion could be positive outcomes for Russian civil society.

Responsibility

A last point of attention relates to the unstable and unpredictable civil society climate in Russia. It is not always possible for Dutch diplomats to estimate the risks of certain forms of support for NGOs in Russia, and this is likely to continue or even worsen in the future. For this reason, it is important – say multiple interlocutors – to respect the risks that NGOs are willing to take (Interviews 2, 3, 4, 5). They have become quite good at risk analyses, and while the Dutch government leaves many decisions regarding the risks to them, it is essential that it keeps doing so if the climate deteriorates further – not in the least because any other decision would come down to doing exactly what the Russian government wants to achieve with its restrictive legislation. Related to this point is a final recommendation to consult more experts from Russia, who often have a more complete picture of what is happening in the country than experts in Europe – or at least a view that should be taken into account to complement information gathered in the West.

Conclusion

The climate for civil society in Russia, which had been hostile and under pressure since the mid-2000s, has quickly deteriorated since the adoption of the foreign agent law in July 2012. Organisations that are critical of the regime are over-represented on the foreign agent register, and they are also targeted for inspections and marginalised by questionable legal measures. Many of their previous donors have departed and they are further intimidated by a hostile disinformation campaign in the media, equally hostile government rhetoric, and street violence by pro-Kremlin groups. To survive under the new legal framework, many NGOs have adopted new organisational structures, shifted to alternative funding strategies, relocated abroad or closed down to continue their work informally.

The shrinking space for civil society has affected the relationship between the Dutch government and Russian civil society in various ways. In its support for civil society, the Netherlands has simultaneously become more cautious and more creative. Previously strict criteria and rules have been relaxed, and much more support is now provided ‘under the radar.’ These measures to protect Russian NGOs and inventive new ways of support are closely coordinated with Russian organisations, and have resulted in a closer form of cooperation between the Dutch government and Russian civil society. The dependence of Russian human rights organisations on Dutch support has further increased with the expulsion of American donors and the new reality of a civil society climate in which very few Russians have the courage to support NGOs or work for NGOs advancing human rights. Some sources of tension have emerged between the Dutch government and the Russian organisations it supports, but these are not large enough to substantially affect the relationship between the two. On balance, the Dutch government and Russian civil society have grown closer together.

Even though the Dutch response to the worsened civil society climate in Russia appears to be largely adequate, some points of improvement and issues that require some more thought can be identified. More can be done to stimulate the development of a civil society infrastructure, for example by making funding available for human rights NGOs with the objective of professionalising these organisations, development or growth. It is also important to keep assessing where exactly the change makers in society are, and to keep exploring the options of closer cooperation with GONGOs, the Orthodox Church and local NGOs that can make a real change in their communities. Another question that needs constant evaluation is whether the Netherlands should do more through the EU instead of unilaterally. In the current situation it seems best to keep prioritising support through the Dutch Human Rights Fund, but the right balance between unilateral support and EU support can vary over time and is an issue to which close attention should be paid. The Netherlands can do more to promote the emergence of a human rights culture in Russia by prioritising socioeconomic human rights, by financing human rights education and awarding scholarships to Russian students for human rights related programmes abroad. A strategy that could be used to support Russian civil society in a slightly different way is to help Russian organisations make a connection to international political institutions. In all cases, it is important to respect the risks that NGOs are willing to take in the unpredictable civil society climate in Russia. They know best what the dangers of their work are and they are the driving forces behind change and progress in their country.

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Appendix: list of interviews

Interview 1: A Dutch journalist specialising in former Soviet Republics. Conducted on 28/11/2017.

Interview 2: An expert on Dutch-Russian relations, formerly working for the Dutch Ministry of Foreign Affairs. Conducted on 04/12/2017.

Interview 3: A high-level official in the Dutch Ministry of Foreign Affairs. Conducted on 11/12/2017.

Interview 4: The director of a Russian human rights NGO. Conducted on 15/12/2017.

Interview 5: The director of a Russian NGO that provides training, consulting services and partnership development support to NGOs. Conducted on 19/12/2017.

Interview 6: A representative of Amnesty International Netherlands. Conducted on 20/12/2017.

Interview 7: An expert on state-society relations in Russia. Conducted on 05/01/2018.

Interview 8: A representative of an international NGO working in Russia to advance human rights. Conducted on 05/01/2018.

Interview 9: A European External Action Service official. Conducted on 09/01/2018.

Interview 10: A representative of a Dutch NGO working together with Russian civil society to advance human rights in Russia. Conducted on 11/01/2018.

Interview 11: An official in the Dutch Ministry of Foreign Affairs. Conducted on 12/01/2018.

Appendix 4:
Civil society cooperation in Saudi Arabia

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List of interviewees

The interviews conducted for this research are divided into five categories, namely interviews with: (1) human rights activists, (2) international NGOs, (3) the Dutch Ministry of Foreign Affairs, (4) an international organisation and (5) Saudi Arabia experts. For this research a selective group of activists was spoken to. This report, however, does not claim these people represent a complete picture of civil society in Saudi Arabia. Since the reprisals against activists in Saudi Arabia who demand political change are high, most dissidents are reluctant to speak out. Activists like Yahya Assiri, Ali Adubisi and Hala Al-Dosari who left Saudi Arabia can speak out more freely. The activists still living in the country put their personal safety at stake every time they open up. However, two activists, who are still living in the country were interviewed for this research. Their bravery is respected and their openness in sharing their personal experiences is much appreciated. This report was not commissioned by the Dutch Ministry of Foreign Affairs. However, some members of the Ministry were interviewed to gain a clearer picture of the Dutch human rights policy and the bilateral political and economic relations between the Netherlands and Saudi Arabia. At their request, their names are not mentioned in this report. I want to thank them as well for sharing information.

Saudi human rights activists

Interview 1a: **Yahya Assiri**, is a Saudi human rights activist and president of the organisation *AIQst*. He served as an air force officer in Saudi Arabia until 2012, and then he moved to the United Kingdom in 2013. In London, he obtained a Master's Degree in Human Rights and Political Communications from Kingston University. Assiri's organisation advocates for human rights and monitors human rights violations in Saudi Arabia. The interview was conducted on December 13, 2017.

Interview 1b: **Loujain Al-Hathloul**, is a Saudi researcher and human rights defender. She became well-known for defying the female driving ban by driving into Saudi Arabia from the United Arab Emirates on November 30, 2014. She ranked 3rd in the Top 100 Most Powerful Arab Women in 2015. The two interviews with her were conducted on December 12, 2017 and February 11, 2018.

Interview 1c: **Ali Adubisi**, is a Saudi activist, writer and member founder of the European Saudi Organisation for Human Rights (ESOHR). Together with his wife and children he left Saudi Arabia in 2013 and now lives in Germany. Besides two interviews conducted on December 21, 2017 and January 24, 2018, Ali was very helpful throughout the entire research.

Interview 1d: A **Saudi women's rights activist** who focuses on improving women's empowerment and defending women's rights. Afraid of reprisals against her, she is treated anonymously. The interview was conducted on January 24, 2018.

Interview 1e: **Hala Al-Dosari** is a Saudi human rights defender, scholar and women's health activist who is well-known for her activism which seeks to highlight the discrimination of women in Saudi Arabia. Her writings commenting on Saudi political and social affairs and the

challenges for civil society are published in many respectable media outlets. In January 2018 she received the Human Rights Watch Award. The interview was conducted on February 2, 2018.

International NGOs

Interview 2a: **Floor Beuming** is coordinator Middle East and North Africa at Amnesty International. The interview was conducted on November 22, 2017.

Dutch Ministry of Foreign Affairs

Interview 3a: A **policy officer** from the Dutch Ministry of Foreign Affairs. The interview was conducted on November 23, 2017.

Interview 3b: A **high-level official** in the Dutch Ministry of Foreign Affairs. The interview was conducted on December 11, 2017.

Interview 3c: The **first secretary** at the Embassy of the Netherlands in Saudi Arabia. The interview was conducted on December 17, 2017.

Interview 3d: An **official** of the Dutch Ministry of Foreign Affairs. The interview was conducted on January 31, 2017.

An international organisation

Interview 4a: A **representative** of an international organisation active in the Gulf. The interview was conducted on December 10, 2017.

Saudi Arabia experts

Interview 5a: A **University Lecturer**. The interview was conducted on December 8, 2017.

Introduction

“As long the main mode of organisation is tribal, and the leading social currency is honour, nothing is going to change” - interview 5a

The third and final country study presented in this report is the Kingdom of Saudi Arabia (hereafter Saudi Arabia). The government of Saudi Arabia has, like many other countries, recently implemented a law regulating civil society (MFA 2013, 24). The law on Associations and Foundations (hereafter NGO law) was presented late 2015 and entered into force in March 2016. Even though Saudi Arabia, in line with Russia and China, recently started regulating its civil society, civil society in the country always had less power to politically counterbalance the role of the government. Therefore its political impact has always been limited. This third country study proceeds as follows. The first chapter of this section will outline the current state of civil society in Saudi Arabia and addresses the increased restrictions on civil society following the Arab Spring. The second chapter elaborates on the NGO law and discusses the Saudi government’s motivations for implementing the NGO law. This chapter also outlines the impact of the NGO law on civil society in Saudi Arabia, especially on civil society still demanding political change. The third chapter describes the human rights diplomacy of the Netherlands towards Saudi Arabia. It elaborates on the dilemmas the Dutch Ministry of Foreign Affairs faces when dealing with human rights in Saudi Arabia. It also outlines several remarks made by Saudi human rights defenders regarding foreign (western) intervention. In light of the findings presented in this report, a number of recommendations will be made for the Dutch human rights policy towards Saudi Arabia.

Background information

“In one generation we went from riding camels to riding Cadillacs. The way we are wasting money, I fear the next generation will be riding camels again” - King Faisal of Saudi Arabia (Gylfason 2001, 848)

Saudi Arabia is known for its enormous oil reserves (16% of the world’s proven petroleum reserves), which make the country the second biggest oil producer in the world. These resources have led to intensive relations with other countries (Boer 2005, 11-13). The country is also known for Wahhabism, an Arabian form of Salafism that wants to return to practices existing within the Muslim community at the time of Prophet Mohammed. Although the country has undergone a rapid transformation since oil was first discovered in 1935, like other states in the Middle East this rise of state revenue was not accompanied with social and political transformations (Kienle 2011, 148). Due to the huge revenues from oil and gas, the Saudi government does not need to tax its citizens, which grants the government a high level of independence. The rulers provide the indigenous population with a high living standard and in return the population must accept limited to no influence in the political decision-making process (Utvik, 2016, 2). This is also called the ‘rentier effect’, where governments use their oil money to conciliate social uprisings and a public that otherwise would demand for greater representation (Ross, 2001, 332). Whereas political dissatisfaction in neighbouring countries lead to the Arab Spring in 2011, these uprisings did not gain a foothold in Saudi Arabia. On

the contrary, the oil Kingdom saw the Arab Spring as a reason to start its own ‘war on terror’, which included tougher restrictions of civil society organizations (CSOs) and civil society actors. As argued by Professor Madawi Al-Rasheed: “*fearing a domino effect from the Arab uprisings in 2011, the Saudi regime adopted multiple strategies to stifle dissent in the kingdom*” (Al-Rasheed 2016). Even though the government was able to prevent a nationwide uprising in 2011, it currently faces huge socio-economic problems. It’s high youth unemployment rate is one of the main domestic and politically explosive challenges. This high unemployment rate is partly due to a high population growth, as well as a weak private sector and the lack of proper education and inadequate training of the national workforce. Even though many people think of Saudi Arabia as ‘the land of the black gold’ with a very wealthy population, the country’s gross domestic product per capita (GDP per capita) is lower than neighbouring countries such as Kuwait and Qatar and most European countries (Roelants and Aarts, 2016). Young Saudis see big discrepancies in wealth and opportunity, as most have been educated, but there are insufficient jobs and some citizens are very rich, but at the same time there is a shortage of housing (Montage 2015, 2).

Another worrisome development was the decline in the global oil price in 2014 which had a big impact on the Saudi welfare system. The petroleum sector accounts for 42 percent of the country’s gross domestic product (GDP), about 90 percent of its export earnings and 87 per cent of its budget revenue (Forbes 2017). A decline or stagnating oil price affects government provided subsidies such as those for water and electricity (Roelants and Aarts 2016). Attempts have been made to restructure the economy and reduce the unemployment rate. Newly appointed crown prince Mohammed bin Salman, known to many as ‘MbS’, has been attempting to make the private sector the engine of the economy (Elliott House 2017, 20).¹ With his Vision 2030, Mohammed bin Salman also aims to privatize parts of Saudi Arabian Oil Company (Saudi Aramco) and plans to build a US\$500 billion robot driven mega city called ‘NEOM’. Furthermore in September 2017, a Royal Decree was issued, lifting the ban on women drivers. As a result, Saudi women can more easily join the workforce and the financial burden of hiring a driver is removed.

Saudi Arabia’s newly appointed crown prince has changed the somewhat sleepy, conservative monarchy into an ambitious, aggressive, and unpredictable power in the Middle East (Daragahi 2017). Saudi Arabia has tense relations with Iran which dominate the country’s foreign politics. Alongside this, in June 2017 Saudi Arabia, together with the United Arab Emirates (UAE), Egypt and Bahrain ended all diplomatic and economic relations with the neighbouring country of Qatar. Furthermore, the war in Yemen, in which Saudi Arabia is heavily involved continues until today. In November 2017, Mohammed bin Salman shocked the world by arresting several important businessmen, four ministers and eleven princes in an anti-corruption operation. The arrested, amongst whom was the billionaire Al-Waleed bin Talal were held captive in the luxurious Ritz Carlton hotel in Riyadh while facing allegations of money laundering, bribery and other corrupt activities (Al Jazeera, 2017). Presumably most of those arrested in November 2017 are now freed from detention. The anti-corruption operation, the fierce blockade on Qatar, and the ruthless war in Yemen show an impulsive, assertive and aggressive Mohammed bin Salman, who has made the country less predictable

¹ Prince Mohammed bin Salman replaced Mohammed bin Nayef as crown prince and next in line to the throne in June 2017.

(Daragahi 2017). Where Mohammed bin Salman's actions will lead the country is hard to pinpoint. Similarly difficult to answer is whether Mohammed bin Salman is finally taking up things that needed to be done years ago in order to modernize the country, or whether he is really concentrating his power and removing anybody who stands in his way.

I. The state of civil society

“When you say civil society in Saudi Arabia, you have to work with what you have”

- interview 4a

Civil society in Saudi Arabia: an overview

Due to the enormous power that the government in Saudi Arabia has over society, organisations operating independently from the government or market are rare. In Saudi Arabia civil society is often an extension of the state which operates under the wing of the government. As independent civil society in Saudi Arabia is small and marginalized, scholars have questioned the entire existence of civil society in the country (Thompson 2017, 842). However, if you interpret civil society as “all associations and networks between the family and the state in which membership and activities are voluntary” and include organisation such as charities and civil society organisations (CSOs) focusing on social services, a different image of civil society emerges. According to specialist in civil society in Saudi Arabia Carolien Montagu: “*the domestic voluntary sector in Saudi Arabia is broad and deep*” (Montagu 2015, 6).

Civil society in Saudi Arabia should therefore be divided into two groups. The first group fulfils activities that are complementary to the activities of the state. This is civil society as formulated by the Saudi government and should not be confused with civil society as an independent group between state and society. This group consists of charities, business affiliated charities, specialized or professional CSOs operating under governmental entities and government-organised non-governmental organisations (GONGO’s) (Al-Dosari 2015). In this research these groups are addressed as non-political organisations. However, when strictly applying the definition of civil society given by Michael Walzer that describes civil society as an entity that is relatively independent of both the government and market, only a very small group of actors remains (Edwards et al. 2011, 4). This group is operating independently from the government, critically observing government policies and demanding social and political change. Those civil society actors demanding reforms against the will of the government are referred to as political organisations or independent civil society.

Non-political organisations

The biggest part of Saudi civil society consists of charities (Meijer, Aarts et al. 2012, 44). *Zakat* or charitable giving is an important pillar of Islam (Montagu 2015, 26). In recent years the charitable sector has increased enormously from 200 organisations in 2008 to 950 in 2015 (Montagu 2015, 17). Charities do not engage in political activities but provide services such as housing, education, health and disability provision (Meijer, Aarts et al. 2012, 44; Montagu 2010, 74; interview 4a). They are either licensed by the Ministry of Social Affairs or established by Royal Decree and are not allowed to operate outside their pre-defined tasks (Montagu 2010, 78). Most charities are connected to elites within Saudi society who use these organisations to gain prestige and legitimacy (Meijer, Aarts et al. 2012, 44). These charities are often named by members of these families (interview 1a). A second form of non-political civil society is the business community that provides financial support to groups in need and focuses on (economic) empowerment. This sort of cooperation is referred to as ‘corporate social responsibility’ (Meijer, Aarts et al. 2012, 45). A

third form of non-political civil society are specialized or professional organisations operating under governmental entities. Hala Al-Dosari a Saudi human rights activist and writer mentions patients' service-oriented CSOs licensed by the Saudi Commission for Health as an example of these kind of organisations (Al-Dosari 2015).

A fourth form of non-political civil society organisations are GONGOs. An example is the National Society for Human Rights (NSHR) an organisation which was created in 2004 (interview 1c, 1e). The NSHR presents itself as independent, but human right defenders question its independence and 'real' commitment to human rights. Many suggest the organisation is there to divert attention away from 'real' and 'independent' activists in the country (interview 1a; The Observatory 2018, 23). The NSHR frequently meets with international delegations who visit the country (NSHR 2015). According to a human rights activist, Saudi Arabia is showcasing the NSHR as an example of independent civil society, but this is not the case. It is founded, supported by and working under the government (interview 1c). Generally, the NSHR follows government policy and stays away from issuing critical statements about cases of human rights violation. For example, the NSHR did not condemn, but supported the execution of 47 people for terrorism, including the prominent Shia cleric Sheikj Nimr Al-Nimr, in January 2016 (interview 1c; NSHR 2016).

In sum, the non-political organisations make up an enormous part of civil society in Saudi Arabia.

Political organisations or independent civil society

This second group of civil society in Saudi Arabia comes closer to civil society as known in a western context: an independent critical counterbalance to the power of the government. In Saudi Arabia, people have no influence on the political decision-making process besides the *Shura council* which fulfils an advisory role. The reprisals against citizens demanding political and social rights are high. An example is Saudi Arabian blogger Raif Badawi who received a punishment of 1,000 lashes, and was sentenced to 10 years in prison followed by a 10-year travel ban, for starting an online forum for public debate (Amnesty 2017). As these reprisals are so high, only a small group of people is openly asking for political change. As stated by a representative an international organisation active in the Gulf: "*when you say civil society in Saudi Arabia you have to work with what you have*" (interview 4a).

The Saudi activists belonging to this second group mainly focus on human rights and women rights (Meijer, Aarts et al. 2012, 52). The Dutch government defines human rights defenders as "*individuals, groups and civil society institutions that are engaged in promoting and protecting universally recognised human rights and fundamental freedoms, from civil and political rights to economic, social and cultural right*" and states that "*activists who commit or propagate acts of violence do not fall within the definition of human rights defenders*" (MFA 2013, 24). Human rights defenders in Saudi Arabia are involved in activities such as documenting violations of human rights, combating impunity and offering legal support to fellow human rights defenders (interview 2a). Others oppose discrimination against religious minorities, including the Shia Muslim minority. Many women's rights defenders demand the end of the male guardianship system (*mahram*) which makes them second class citizens. However, these individuals focusing on rights are in no position to establish substantive political change (Meijer, Aarts et al. 2012, 54). In an authoritarian society like Saudi Arabia their impact is limited (interview 1c).

An example of a Saudi organization demanding political rights was the Saudi Arabian Civil and Political Rights Association (ACPRA) founded in 2009 (Al-Rasheed 2015, 55). The members of ACPRA called for political reforms and documented human rights violations committed by the Saudi government (ADHRB and BIRD 2016, 29). ACPRA received support from the conservative Islamist camp in the country which made them a serious threat for the monarchy (Azoulay 2014, 4). By 2016 almost all founders of ACPRA had been imprisoned (HRW 2017). A human rights activist interviewed for this research stated that the only civil society that is still very active in Saudi Arabia has established itself online (interview 1b). Social media and especially Twitter is very popular and Saudi Arabia has the highest percentage of internet users active on Twitter worldwide. As stated in an article by Assistant Professor of Middle East Studies Mark C. Thompson: “*everyone from King Salman down has an account*” (Thompson 2017, 842). Activists use social media to publicise cases of human rights violations (interview 1a, 1c; MFA 2013, 15). Furthermore, private messaging applications give people the possibility to connect and communicate with each other. Where human rights defenders face many restrictions in meeting physically, they can meet in a virtual space and share ideas and organize their activism. For instance, a Twitter protest under the hashtag *#thisiswhywedefendrights* went viral within 48 hours and received a lot of support among Saudi Twitter users (interview 2a).² Most people participating in these actions used anonymous accounts as they did not feel safe taking part in certain actions under their own name (interview 2a). As one of the activists mentioned: “*there is no legal umbrella that protects us, so we put ourselves as individuals at great risk every time we go public*” (interview 1b). The ‘political impact’ of social media is hard to determine, but it almost certainly provides a space where Saudi citizens can express their opinions and get alternative information from that provided by the government (Thompson 2017, 301). Besides human rights defenders, government loyalists, religious clerics, and prominent intellectuals are also active on social media, in this way influencing the discourse and public debate (Thompson 2017, 301).

A final group of activists that critically opposes the Saudi government are those living in exile. Many of them have established organisations with which they monitor human rights violations and showcase these violations to make sure the international community is aware of what is happening in the country. Living in exile gives them the opportunity to express their critique and tell the stories of those peaceful dissidents silenced by the Saudi government without being arrested. Nevertheless, these activists in exile cannot return to their home country.

Civil Society under pressure

“The Saudi government keeps using the war on terror against everything” – interview 1a

In Saudi Arabia there always has been a high level of restrictions on civil society. The more the state opens up to civil society, the harder it becomes to sustain its autocracy. Saudi Arabia has witnessed a few periods of increased repression of civil society. Increases in political demands or Islamists threats are often followed by additional reprisals on civil society. In the aftermath of the Gulf War (1990-1991), university academics, lawyers, businessmen and

² The original hashtag in Arabic was *#الدفاع عن حقوقنا*

religious scholars wrote a 'Letter of Demands' to the state in which they requested political reforms in the Kingdom. The government responded with a "comprehensive campaign of mass arrests" against these reformists (IHRC 2011, 4). Furthermore, in the 2000s the Kingdom responded to a series of attacks by Al-Qaeda in the Arabian Peninsula with a counter-terrorism operation which also eliminated peaceful opposition to the government. (IHRC 2011, 5-6; Meijer, Aarts et al. 2012, 6). In the aftermath of the Arab Spring the Saudi government has again effectively suppressed dissident voices (The Observatory 2018, 4). According to a policy officer from the Dutch Ministry of Foreign Affairs, in the last few years the reprisals against activists have increased significantly: '*there is no denying that*' (interview 3a).

Anti-terrorism law

In February 2014, the Saudi government issued a new counterterrorism law as a response to Saudi citizens engaging in terrorist activities. The law was mainly used to prosecute human rights defenders and suppress all forms of political opposition (Azoulay 2014, 1-2). The law describes terrorism as any acts that "*insult the reputation of the state,*" "*harm public order,*" or "*shake the security of society*" (HRW 2014). The authorities believe the promotion of human rights harms the public order and therefore refer to it as a terrorist activity (interview 1a; The Observatory 2018, 14). The anti-terrorism law grants a great amount of power to the Ministry of Interior who can arrest and detain activists without court authorization (Montagu 2015, 11). From 2014 onwards, the Saudi government has put on trial almost all activists in Saudi Arabia's terrorism tribunal using a specialised criminal court (HRW 2016). Many international actors, such as the human right bodies of the United Nations (UN), have criticized the anti-terrorism law with its vague description of terrorist activities. Even though the law was amended in 2018, the definition of terrorism is kept vague (The Observatory 2018, 20). According to one human rights defender, there has always been little space in Saudi Arabia for those people demanding political change, but this little space has only become smaller since the Arab Spring. He believes that the government keeps the space that exists for people demanding political change as limited as possible, giving them no chance to organize protest, and in this way avoiding a second Arab Spring (interview 1c).

The era of Mohammed bin Salman

A further crack down on civil society can be observed in the period since King Salman bin Abdelaziz and his son Crown Prince Mohammed bin Salman became heads of the government (The Observatory 2018, 4). An interviewee explains that there has been increased restrictions on civil society: "*it was always a tight scenario, but now it is even tighter*" (interview 4a). She and others describe Crown Prince Mohammed bin Salman as the key driver behind these restrictions. According to them, Mohammed bin Salman does not tolerate any resistance, hates to be criticized and does not allow anyone to raise questions or concerns about his plans. This has limited the scope of real civil society even further. According to Ali Al-Ahmed a Saudi activist and dissident based in Washington DC., "*if anyone stands in his way, he takes them out*" (Daragahi 2017). The arrests in November 2017 are a clear example of Mohammed bin Salman's aggressive stance towards critical voices. Therefore, many experts on Saudi Arabia refer to the current situation as one where "*those who talk do not know, and those who know do not talk.*"

Various reasons are presented as an explanation of Mohammed bin Salman's tough stance towards human rights defenders. Al-Dosari believes that these increased restrictions are caused by the government's realization about the impact activists can have on the reputation of the state and the perception of the public towards the leadership in Saudi Arabia (interview 1e). According to her, the government puts a lot of effort into restraining this influence by arresting and silencing peaceful dissidents. Although many interviewees point to Mohammed bin Salman as the motivator of these increased restrictions, western media outlets seem to be quite positively about the 'reformer' of Saudi Arabia. Saudi Arabia has found a way to keep down the criticism and portray itself as an agent of modernization and reform (interview 1e). Mohammed bin Salman has spoken openly about his Vision 2030 with key media outlets in the western world. In this way the Crown Prince presents himself as a promising ally who brings forth modernization and fights Islamism. Influencing the discourse about the country has become an important tool for Saudi authorities to counterbalance critical voices. In September 2017, the Saudi Embassy in Washington DC. appointed Fatimah Baeshen as the Kingdom's first spokeswoman. Baeshen was appointed shortly before the announcement ending the driving ban on women. Al-Dosari argues that in this way Baeshen as a woman, can speak about the new age that has come for Saudi Arabia (interview 1e). According to some women's rights activists, the government contacted them after the Royal Decree was issued and told them not to comment on and claim a victory regarding the end of the driving ban. The Saudi authorities wanted to showcase this Royal Decree as an act of mercy by the King and Crown Prince, instead of as a victory of the women's rights activists who campaigned for this for many years (interview 1b, 1d, 1e). Another example that questions the real intentions of the reformer Mohammed bin Salman is the anti-corruption campaign from November 2017. Although, members of ACPRA had campaigned against corruption for many years, none of the ACPRA members were released during this anti-corruption campaign (interview 2a). According to Amnesty International it is important not to be blinded by the PR campaign carried out by Mohammed bin Salman and not to interpret his actions merely as 'liberal' reforms, as this ignores the repressive reality on the ground (interview 2a).

Law on Associations and Foundations (NGO Law)

Since 1992, Saudi Arabia has had a Basic Law that determines the role of the authorities and defines the rights of its citizens. This law does not mention the role and rights of civil society, the right of freedom of expression or freedom of association (ICNL 2017, 1-6). These rights are limited by repressive laws that are broadly formulated, leaving significant room for the government to interpret these laws to their own liking. The only reference in the Basic Law to human rights is Article 26 describing how "*the state shall protect human rights in accordance with Islamic Sharia*" (ICNL 2017, 5). In addition, Saudi Arabia has endorsed the Universal Declaration of Human Rights (ICNL 2017, 5). In December 2015, the Law on Associations and Foundations (hereafter the NGO law) was added to Saudi Arabia's legal framework (ICNL 2017, 4). The law came into effect in March 2016 and the bylaws that regulate foundations and associations were issued in April 2016 (The Observatory 2018, 22). For the first time in the country's history, the law and its implementing regulations provided a legal framework for the organisation, operation, and supervision of associations and foundations in

Saudi Arabia, which until then were prohibited (ICNL 2017). Initially, many people were enthusiastic about the NGO law, which would mean organisations were regulated and would allow CSOs to operate legally. Nevertheless, others have wondered if this law really marks a step forward and allows organisations to operate freely and independently (Coogle and Beckerle 2015). Several concerns about the law which have been frequently expressed regard the broad concepts used in the law, the limited activities these organisations are allowed to carry out under the law, the far-reaching involvement of the government and the restrictions on cooperation with foreign actors.

Broad concepts

Like other laws in Saudi Arabia, the NGO law is filled with broad definitions, giving the Ministry of Social Affairs and the Ministry of Islamic Affairs wide authority to decide which activities are accepted under the regulations. In this way the law grants a significant amount of freedom to the government to interpret the law to their own liking (Al-Dosari 2015). According to Saudi human rights activists, if organisations do anything against ‘national unity’, do anything which conflicts with the nation’s Islamic identity, or do things that are not allowed according to the law’s very broad definitions, then these organisations are dismantled and forbidden (interview 1d, 1e).

Activities of organisations

The NGO law only allows organisations which are active in certain spheres to register. The allowed activities are those which involve charitable work, mutual support, as well as religious, cultural, health, environmental, educational, teaching, scientific, professional, artistic, youth, and tourism activities. Also allowed are activities related to consumer protection or any other civil society activity as understood by the Ministry of Social Affairs (article 1 as described in The Observatory 2018, 22).³ These organisations “*do not have the right to act outside the framework of the objectives which have been defined for them or to conduct activities likely to disrupt public order or incite division among citizens*” (article 23 as described in The Observatory 2018, 22). The website on which organisations can register contains a dropdown menu in which these activities are listed. Activities related to human rights are not among the registration possibilities (interview 2a). The Ministry of Social Affairs has 60 days to decide if an organisation is accepted. If there is no response to the applicant, the application is presumptively accepted (ICNL 2017, 17). However, the regulations state that “*no organisation has the right to exercise any activity while it has not completed all the procedures*” (article 8 (4) as described in The Observatory 2018, 22). If an application is turned down, the Ministry of Social Affairs is not required to provide an explanation for why the application was rejected (interview 1d).

In sum, the NGO law affects the two groups in civil society differently. It is used to regulate non-political organisations and grant them legal foundation. At the same time, the NGO law restricts the work of political organisations and makes it impossible for them to carry out their work. For the latter, the law means another governmental tool to repress the political organisations striving for human rights and political freedoms.

³ Analyses of the law have been published by the International Center for Not-for-Profit Law and The Observatory. These analyses have been used for this report.

Far-reaching involvement of the government

The NGO law grants a significant amount of power to the Ministry of Social Affairs. According to Article 4 of the law, the Ministry has a mandate to register and supervise all organisations (ICNL 2017, 16). It can for instance dissolve an organisation that “*exceeds the limits of its sphere*” or “*contravenes the rules of Sharia, public order, good morals or commits any act that harms national unity*” (article 23 (1b,1e) as described in The Observatory 2018, 22). After approval the Ministry has far-reaching control over the internal affairs of the organisation. Organisations have to inform the Ministry and supervisory bodies if they hold a general meeting, and the Ministry may send a delegate to attend these meetings (article 13 (2) as described in The Observatory 2018, 23). The law also allows the Ministry to send someone to be present during an election of members of the organisation (article 18 (2) as described in The Observatory 2018, 23) and allows the Ministry to revoke the results of these elections if it believes the organisation has not complied with the regulations (article 18 (3), as described in The Observatory 2018, 23). Furthermore, copies of the minutes of all general assembly meetings have to be submitted to the Ministry within 15 days of the meeting (ICNL 2017, 22). In addition, the Ministry has the authority to examine and obtain an organisation’s records, ledgers and correspondence (ICNL 2017, 22). Another issue with the law is that it grants wide capacity to the Ministry to close an organisation (interview 1e). For instance, the Ministry can impose sanctions such as replacing the entire board of directors if an organisation does not comply with the regulations (ICNL 2017, 22). Furthermore, if an organisation does anything that contradicts the law, the Ministry can dismantle the CSO and confiscate its belongings without needing a legal request. According to a human rights activist, there is no independent legal authority to intervene in certain cases of dispute (interview 1e).

Foreign actors

According to the law, foreign organisations and foundations are, according to the law, not allowed to open up branches in Saudi Arabia. Organisations need at least 10 founders, all Saudi nationals to apply. In addition, Saudi organisations cannot establish relations with international organisations and are not allowed to receive foreign aid without the permission of the Ministry of Social Affairs (article 21 (12) as described in The Observatory 2018, 23). Furthermore, the law prohibits organisations from signing contracts or agreements with states or international organisations and institutions without the approval of the Ministry of Social Affairs and other expert bodies (Article 39 (2) as described in The Observatory 2018, 23).

In sum, all these regulations stop CSOs involved in political activities from registering. Due to all these restrictions the NGO law only allows for government sanctioned, non-governmental organisations (Al-Dosari 2015; interview 1e). Therefore, this new law restricts, more than regulates civil society organisations with a political agenda.

Saudi motivations for the NGO law

“When the NGO law was issued there was approximately zero civil society in Saudi Arabia”
– interview 1c

All interviewees were asked what they saw to be the Saudi government’s motives for implementing the NGO law. Some believed the government issued the law in response to

repeated requests from the international community. Others stated that the law was issued as part of the country's economic diversification policy. Many assumed that the law was really a PR stunt.

Pressure from the international community

For a long time, the international community demanded that Saudi Arabia make a law allowing CSOs to register. In December 2013, the UN Human Rights Council submitted 225 recommendations to the Saudi government as part of the second 4-year cycle of its Universal Periodic Review (UPR) of Human Rights. These recommendations clearly show the pressure of the international community demanding a certain law. The Netherlands, for instance recommended Saudi Arabia “*enhance legislative reforms amongst others by taking measures to ensure in the short term, as well as legally and in practice, the registration of fully independent human rights NGOs*” (recommendation 138.46, UPR 2013, 4). In that same list of recommendations, Canada asked Saudi Arabia to “*take measures to foster an enabling environment for civil society, including through enacting and implementing before the next UPR a law on associations to allow for legal creation and registration of independent civil society associations and organisations*” (recommendation 138.54, UPR 2013, 4). Germany recommended Saudi Arabia “*adopt a NGO law which should take into account the views of civil society stakeholders and provide an enabling framework for the development of civil society in Saudi Arabia*” (recommendation 138.49, UPR 2013, 4). Saudi Arabia fully accepted the recommendation made by Germany. It only partly accepted the recommendations made by the Netherlands and Canada. In a statement issued by the government they declared that: “*the Kingdom notes that the draft of “civil society organisations” is currently under study, ensuring that it does not consider itself bound to determine a time for issuing any system, including this system*” (ADHRB and BIRD 2016, 35). It took the government some time to approve the NGO law. In 2006, a draft version of the law regulating the registration of CSOs was submitted to the *Shura council*, the highest advisory body to the King. The *Shura council* approved an amended version of the law in 2008 and submitted it to the Cabinet. Nothing happened for seven years until the Cabinet chaired by King Salman approved the law in November 2015 (ICNL). According to Adubisi, it took the government so long because they wanted to create a law that could not be used by civil society actors to empower themselves (interview 1c). Many of the interviewees believe the Saudi government implemented the law to avoid international criticism at the next UPR (interview 1c, 1e, 2a, 3a). This can be interpreted as a positive trend as it shows that the Saudi government is, to a certain extent, sensitive to international pressure (interview 2a).

Economic motivations

Besides the external pressures on Saudi Arabia to make the law, the economic transformation of the country is pointed to as important driver behind the law. According to a representative of an international organisation, Saudi Arabia did not implement the law to meet international requests, but out of realistic plans for the future (interview 4a). When looking at Saudi's Vision 2030, the aim to establish a more effective non-profit sector becomes clear. In its vision for the future the governments states: “*today, we have fewer than 1,000 non-profit and charitable foundations and associations. They contribute just 0.3 percent of our GDP, much less than the global average of 6 percent. Currently, just 7 percent of projects are focused on*

generating social impact or are aligned with the long-term national priorities. By 2020, more than one third of our non-profit organisations' projects should have measurable and deep social impact" (Vision 2030 2016, 77). The goal of the Saudi authorities is to create a vibrant civil society in which "*the sector's institutions and government agencies can collaborate*" and that facilitates "*high quality training to staff and promote a culture of volunteering and full-time careers in the sector*" (Vision 2030 2016, 77). Although not mentioned in Vision 2030, some interviewees assume that the government tries to create a stronger civil society that is able to adopt the welfare tasks that the government might not be able to fulfil in the future (interview 1e, 4a). Due to austerity measures, those individuals who are in need of financial support will increase and the government will not be able to meet their needs. A civil society is needed to deal with these consequences (interview 1e, 4a). Some of the interviewees agree that the same economic motivations underlie the Royal Decree issued in September 2017 allowing women to drive (interview 1a, 1e, 4a). Female participation in the Saudi economy is needed and many believe letting women drive was a step that needed to be taken for the sake of the Saudi economy and not for the sake of women.

PR stunt

Many interviewees believe the NGO-law fits into the 'PR show' of Mohammed bin Salman (interview 3a). With the law, he has underlined the importance of civil society in a way which gives the impression of liberal reforms. Organisations such as the Sheikh Mohammed Hussein Al-Amoudi Center of excellence in breast cancer founded by Saudi consultant obstetrician and gynaecologist Sami Al-Amoudi, are showcased as reformative organisations promoting women's health information, but these are criticised by human rights activists for not critically addressing the discriminatory policies against women in the country (interview 1e). Interviewees also interpret the law as a cosmetic change as it does not allow political CSOs to register. Therefore, the law has not established a positive change for political organisations. The law is partly used to illustrate the commitment of the Saudi government to human rights, while actually the situation for Saudi human rights defenders is even more restrictive than before (interview 1c).

Impact of the NGO Law

"Once organisations have registered their hands are tied, and their projects are tied"
– interview 4a

The NGO law has been active for a little over two years. Since the law entered into force, over 600 organisations have registered, most of them charities. Some believe that the law is a significant step forward as it allows CSOs to legally operate (The new Arab, 2015). However, many interviewees stated that there is a lot wrong with the law and that it is not doing what it was expected to do. To start with, many human rights defenders remain imprisoned for activities that are deemed permissible under the new NGO law. The law did not correct the cases of those already sentenced for establishing organisations without permission (interview 1e). For instance, Waleed Abulkhair a Saudi Arabian lawyer and human rights activist serving a prison sentence of 15 years for establishing the organisation Monitor of Human Rights in Saudi Arabia, remains imprisoned. Also, Mohammad Al-Qahtani and other founders of the

human rights organisation ACPRA have also not been released. Another problem frequently pointed out by the interviewees is that the law does not contain a category which allows activists to start a political organisation. Certain NGOs spreading awareness of human rights and supporting imprisoned activists are not allowed. NGOs need to be ‘political correct’ in order to register. If the subject of these organisations is considered incorrect or controversial, they will not be approved. According to many interviewees, ‘independent’ civil society organisations that address issues that are not in Vision 2030 are turned down (interview 1a, 1b, 1c, 1d, 1e, 2a, 3a, 4a). A policy officer of the Dutch Ministry of Foreign Affairs adds that those organisations that are able to register are not involved in any real transitional movement in the country but seem to be charity organisations rather than CSOs (interview 3a). A group of activists interviewed for this research tried to establish a shelter for women soon after the NGO law was issued. For a while they were planning to establish such a shelter that would operate independently from the government shelters for domestic abuse. These government owned shelters are often difficult to access and only provide temporary accommodation. With the NGO law, these women saw an opportunity to establish their own shelter and give women seeking shelter legal protection and financial support (interview 1a, 1b, 1c, 1d, 1e). However, their request was turned down. According to Al-Dosari, the government rejected the application because they want to control these institutions hosting women that are victims of domestic abuse. In this way they are able to control the narrative and protect the reputation of the Saudi government and society: *“they do not want people to find out what is really happening in the country”* (interview 1e).

Besides the limited activities organisations are allowed to carry out, another registration barrier is the long and bureaucratic application process. A woman who tried to set up an organisation focusing on improving women’s rights explains that the process took much time as the registration requires many different documents (interview 1d). Furthermore, the officials handling the application kept postponing a decision and asking them to deliver other administrative material. After more than a year, the government denied her application (interview 1d). The whole registration process lacks transparency and clear regulations (interview 1e). Furthermore, if one of the founding members has been associated with social activism in the past, their application is likely to be turned down (interview 1a, 1c, 1e).

Another point of critique that is mentioned repeatedly is that the NGO law does more than just provide a legal platform for CSOs to register. It is also a tool for the government to have better grip on civil society. According to an interviewee, the law gives civil society actors less space to operate. After registration, the government monitors these organisations closely and directs their use of money. Therefore, these organisations lose their economic independence and are dependent on the goodwill of the government. As stated by a representative of an international organisation *“it clips their wings”* (interview 4a).

The impact the NGO law has on ‘real’ civil society, it makes it more likely that this law was adopted to silence criticism than to foster civil society. All human rights activists where asked they saw to be the impact of the law on the situation for human rights defenders. Adubisi stated that civil society was already in a very bad situation before the law was announced, as most of the activists where either in exile or in jail. *“There was approximately zero civil society in Saudi Arabia”* (interview 1c). According to him, after the NGO law, peaceful dissidents have become even more afraid to carry out their activism. If they apply to

register as a political organisation the government will notice that they are doing something related to human rights. “*There is no room for human rights organisations in this law at all*” (interview 1c). Another activist stated that the situation for human rights defenders was better before the NGO law. According to her, before 2015 activists could organize themselves without being (fully) illegal, as there was no law regulating associations and foundations. The government would confront them about their activities, but in response they could point out the fact that there was a lack of NGO law. Currently, with the law in place, they can only organize themselves if their application is approved. Without an approved application they are ‘officially’ illegal (interview 1d). Another activist added that the government could, in the long run, use the law to justify continued arrest of activists. With a law in place, unlicensed activities are now illegal (interview 1b). In line with these activists, another interviewee stated that real civil society did not increase because of the law. She believes the opposite occurred and argued that activists are more scared of registration (interview 4a). According to her: “*although the law at first sight seems to be a good move, when looking at the text and the implementation more closely, it becomes clear that it actually is a farce*” (interview 4a).

Even though the majority of the interviewees interpret the NGO law as having a negative impact on the development of what they call ‘real’ civil society, some of them raised hopes of a positive side to this law. For instance, one human rights activist said they hoped that this law would teach people how to deal with society issues and teach them to work in civil society even though this civil society is not addressing the real problems (interview 1a). Furthermore, a policy officer from the Dutch Ministry of Foreign Affairs noted that there were a lot of flaws within the law, but states that at least there was now a law. This law provides possibilities for discussion with Saudi officials regarding the restrictions. It is easier to suggest concrete improvements or additions to an existing law than to suggest new legislation (interview 3a). Al-Hathloul concluded that the law will not stop the activists in Saudi Arabia from defending and calling for human rights. They will continue pushing for social change and focus on establishing an organisations that will be accepted under the NGO law (interview 1b).

II. Dutch human rights policy towards Saudi Arabia

“We cannot hold our own government accountable, therefore we need international actors to hold the government accountable and establish a positive change.” – interview 1e

“Human rights are the cornerstone of human dignity, freedom and development, and form the basis for open and free societies all over the world. There can be no democracy or rule of law if these rights are not promoted and protected. The Netherlands has a rich tradition of defending human rights, both at home and abroad. Doing so is a moral and legal obligation, besides which respect for human rights leads to a more stable and prosperous world, which also benefits the Netherlands” (Dutch MFA 2013, 4). In its attempt to strengthen respect for human rights abroad, the Dutch government works closely with civil society in foreign countries (Dutch MFA 2013, 17). Civil society actors are considered ‘change agents’ as they can develop democratic values, promote political participation, develop education programs, represent diverse groups in society that are not necessarily represented in the government and in this way make their voices be heard (Staatscourant 2017). Within the Dutch human rights diplomacy towards Saudi Arabia, several focus areas can be identified. In 2015, the former Minister of Foreign Affairs Mr. Bert Koenders described promoting respect for human rights and support for human rights defenders and dissidents as a priority within the Dutch human rights policy towards Saudi Arabia (Koenders 14/03/15, interview 3a). Furthermore, Koenders pointed to the position of women, the death penalty for minors and codification of the criminal law as areas with possible room for change. (Koenders 14/03/15). Dialogues about topics such as the death penalty, torture of detainees and LGBT rights have proven to be very difficult (Timmermans 15/01/14). Saudi Arabia is one of the five countries world-wide where homosexuality still carries the death penalty (MFA 2013, 27).

Due to Saudi Arabia’s fierce stance against human rights defenders, countries including the Netherlands find themselves in difficult situations when dealing with human rights defenders and addressing human rights violations in Saudi Arabia (interview 3a, 3b, 3d). Under these circumstances, western countries have to balance the question of human rights with their other foreign interests in the country (interview 1e). Western countries are overall reluctant to openly criticise the human rights situation in Saudi Arabia as it may affect their security interests and bilateral trade (interview 2a). An example is Swedish Minister of Foreign Affairs Margot Wallström, who caused a diplomatic crisis as she critically addressed the flogging of human rights activist Raif Badawi in June 2015. Saudi Arabia reacted furiously to her statements and Swedish business leaders were concerned about the damage her statements would do to Sweden’s trade with Saudi Arabia (interview 1e). Human rights activists and Amnesty International have frequently requested that western governments publicly confront the Saudi government with their human rights violations (interview 1a, 1b, 1c, 1d, 1e, 2a). However, this ‘megaphone diplomacy’ is not a tool that foreign governments tend to use. Often, they prefer ‘silent diplomacy’ where individual cases of human rights violations are addressed in personal conversations (interview 2a). Furthermore, as honour is very important within Saudi society, accepting public requests could mean the loss of face of the Saudi authorities.

Addressing violations of human rights and international humanitarian law

The Netherlands are, in comparison to other western countries, quite critical when it comes to human rights in Saudi Arabia. The topic is frequently addressed during meetings with Saudi Arabian officials. In addition, the Netherlands aims to address, together with the European Union and other like-minded states cases of human rights violations (Koenders 30/06/2017; Timmermans 15/01/2014). As such, following the mass executions of January 2016, the Netherlands insisted that the High Representative of the EU condemn these executions (letter to Parliament 13/01/16). Furthermore, the Netherlands actively participates in UPR sessions and the Dutch Human Rights Ambassador, who is the face of the Dutch human rights policy, frequently visits Saudi Arabia to speak about human rights and address specific cases of human rights defenders (Dutch MFA 2013, 19; interview 3a). During these visits the human rights ambassador speaks with government officials, civil society, businesses, religious minorities, activists and journalists (Timmermans 15/01/14). In Saudi Arabia punishments such as the death penalty and torture are still being imposed on convicts. Human rights defenders accused of threatening national security also risk excessive punishments (MFA 2013, 19). When visiting Saudi Arabia, the Dutch Human Rights Ambassador stresses the international agreements and minimum standards that must be taken into account if the death penalty is carried out. These standards include a fair trial for the convict, only imposing the death penalty if a serious crime is committed, and not imposing the death penalty on minors (MFA 2013, 19). By constructively addressing the importance of human rights, the Netherlands hopes to contribute to a sustainable society where fundamental human rights are respected and promoted (interview 3a). Another way to publicly show the country's commitment to human rights is by rewarding human rights activists and organisations and so pointing out their 'good work' (MFA 2013, 20; interview 3a, 3b, 4a). An example of such an award is the Dutch Human Rights Tulip that is given to individuals or organisations that promote human rights in innovative ways every year.

Trial monitoring

One of the recommendations of the Netherlands during the UPR of October 2013 was to “*provide maximum judicial transparency, for example by allowing officials of third countries to attend public trials at criminal and security courts*” (recommendation 138.144, UPR 2013, 10). In 2014-2015, Saudi Arabia has allowed EU member states, including the Netherlands, to attend these trials. It is not clear if attending these trials has any influence on the convictions of human rights defenders. However, attending the trials does allow the member states to provide the human rights defenders with 'moral support' and to monitor whether certain legal procedures, such as having access to a lawyer, have been respected (interview 3a).

Financial support

As human rights organisations in Saudi Arabia are not allowed, financing by foreign governments or organisations is also not possible. According to a policy officer of the Ministry of Foreign Affairs, this was never possible, even before the NGO law was issued (interview 3a). In 2013, the Netherlands did spend €16.000,- on activities to improve human rights in Saudi Arabia. The main focus was improving the position of women and human

rights defenders (MFA 2014). The Dutch Embassy in Riyadh organized a seminar in which Dutch companies received instructions about female employment in Saudi Arabia. From the Human Rights Funds the Netherlands currently finances a project named “Shelter Me Phase 2” that focuses on the rights of migrant workers in the Gulf (Qatar, Kuwait, the UAE and Saudi Arabia) (interview 3a).

Women’s rights

Supporting female empowerment and women’s rights is an important part of the Dutch human rights diplomacy towards Saudi Arabia. Women’s rights is considered a topic where there is possible room for change as it, as previously explained, contributes to the economic sustainability of the country. In an average Saudi household, the salary of women is a much needed contribution. To echo Middle East experts Carolien Roelants and Paul Aarts: “*economic necessity is a motor of change*” (Roelants and Aarts 2016). The Ministry of Foreign Affairs has financed GloWork, a Saudi organisation that aims to empower women and increase diversity in the Saudi workforce. GloWork was founded in 2011 by a young Saudi entrepreneur Khalid Al-Khodair who despite the religious restrictions of the conservative Saudi society tries to employ women in the service sector (Roelants and Aarts 2016). As GloWork has developed into a successful organisation, this funding has stopped (MFA 2014; interview 3a, 3c). Together with GloWork, the Dutch Embassy in Riyadh organised a seminar in 2013 for Dutch companies to inform them about the female participation in the workforce (MFA 2014). Furthermore, in May 2017, six female entrepreneurs and one male entrepreneur from Saudi Arabia visited the Netherlands, during a mission focusing on female participation in the Saudi workforce organized by the Dutch Ministry of Foreign Affairs (interview 3a, 3d). In addition, the Dutch Embassy in Riyadh is involved in workshops which focus on the economic participation of women (interview 3c).

Concluding remarks and recommendations

Civil society actors play an important role within the human rights policy of the Netherlands. This research has focused on the development of civil society in Saudi Arabia and analysed the impact that the NGO law of 2015 has had on civil society. Both human rights activists interviewed for this research, as well as policy makers from the Dutch Ministry of Foreign Affairs, believe that in the last couple of years the manoeuvring room for civil society actors in Saudi Arabia, which always was very small, has shrunk even further. In particular, the anti-terrorism law of 2014 has been used to silence a majority of the peaceful dissidents active in the country (interview 1a, 1c, 2a, 4a). Whilst the anti-terrorism law was clearly used against human rights activists, some wrongly assume that the NGO law provides a way for civil society actors with a political agenda to legally operate. However, at the moment, the NGO law does not enable civil society actors to establish political change. In addition, some argue that even though the NGO law was not implemented to silence criticism, as was the case with the anti-terrorism law, it is used to do exactly that. Since the implementation of the NGO law, some civil society actors have become more scared to carry out their work. They therefore believe this law is more than just a ‘cosmetic’ measurement (interview 1d). A number of activists clearly stated that they are more reluctant to proceed with their activism following the introduction of the NGO law (interview 1a, 1c, 1d, 1e). Others find it too soon to tell if the shrinking space for politically motivated civil society actors is directly related to the NGO law, but do believe that in the long run the law could be used by the government to further restrict this part of civil society (interview 1b). An important factor related to the recent restrictions on civil society is the newly appointed Crown Prince Mohammed bin Salman. His recent actions show that he does not tolerate any criticism. This implies an even more dangerous situation for those activists disapproving his policies. Furthermore, the image of a reformer that has come to Saudi Arabia dominates the western media outlets. Mohammed bin Salman has proven very successful in influencing the western discourse by showcasing the end of the driving ban and his Vision 2030. However, these reforms do not necessarily foster liberal change. According to many human rights defenders they fit into the ‘PR-show’ being carried out by Mohammed bin Salman, who is trying to open up Saudi Arabia economically and make the country more attractive to foreign investors, but at the same time seeks to close Saudi society politically. A dangerous situation may occur if mere reform in Saudi Arabia is equated with liberalization and progression. Several interviewees have argued that it is of great importance not to be tricked by the superficial reforms of Mohammed bin Salman but keep focusing on what is actually happening in the country.

In sum, under Mohammed bin Salman the crackdown of political civil society actors in Saudi Arabia continues and the NGO law is being used as a tool of the government to silence the remaining critical voices. In light of these findings this report would like to make the following recommendations for the Dutch human rights policy:

Recommendation 1: country specific human rights policy

The case of Saudi Arabia clearly shows the necessity for a country specific human rights policy. The Dutch policy as outlined in the report “Justice and Respect for all” addresses civil society actors as ‘change agents’ who can establish ‘liberal’ reforms from within (MFA 2013, 24). This policy does not apply on Saudi Arabia where civil society is too small to establish

(democratic) change (Meijer, Aarts et al. 2012, 54). In the case of Saudi Arabia, a ‘tailor made’ policy is needed. For instance, open cooperation with civil society actors and financing organisations in Saudi Arabia is not possible. Therefore other ‘creative’ ways have to be found to keep supporting human rights defenders. The fact that cooperation with civil society is difficult and financial support is forbidden does not mean that this is not needed. Especially in a country where the government does not represent the entire population, cooperation with independent civil society is vital. The Dutch government could for instance provide training to human rights defenders in how to organize their activism. Furthermore, in its current human rights policy, the Dutch government has a wide variety of focus areas. In different letters to Parliament former ministers of Foreign Affairs have outlined topics that can be discussed in a dialogue with Saudi authorities (Koenders 14/03/15; Timmermans 15/01/14). Other areas, such as LGBT rights, are very hard to engage with. Therefore, country specific and more realistic goals are important. In addition, many Saudi organisations referred to as civil society, are operating under the government instead of being independent entities, like for instance the SHRA. A dangerous development occurs when government bodies like the SHRA start overshadowing independent civil society actors and international governmental delegations meet with GONGOs instead of independent civil society (interview 1c).

Recommendation 2: critical position on human rights

For the survival of civil society in Saudi Arabia it is important that the Netherlands retains its critical position on human rights. As stated by Al-Dosari, citizens in Saudi Arabia cannot hold their own government accountable. The international community is needed to hold the Saudi government accountable and, in this way, to establish positive change (interview 1e). According to her, western governments should start adopting a comprehensive long-term policy to address the oppressiveness of the Saudi regime and the crackdown of independent civil society (interview 1e). Hopefully the Dutch government will see the opportunity presented by the NGO law to start a discussion with the Saudi authorities about the restrictive bylaws that prevent many groups from registration. A perfect opportunity is the next UPR round in November 2018. In addition, many human rights activists interviewed believe that foreign governments should start to change their strategy of ‘silent diplomacy’ into ‘megaphone diplomacy’ and issue public statements about human rights violations instead of confronting Saudi officials in private. Furthermore, most of the activists argue that trial monitoring does not have any influence on the imposed penalty. According to them, the observing countries fail to make public statements about these trials. Therefore, they request that the observing countries publish reports about the trials they have attended in order to bring about change. At the moment, many Saudi human rights defenders feel abandoned, as explained by an activist during an interview: “*if I get arrested tomorrow, they will do nothing for me, I know it*” (interview 1d).

Recommendation 3: women rights

Saudi’s diversification agenda offers opportunities for female participation in the economy. Due to the current economic situation in Saudi Arabia, women are needed in the workforce. This offers possibilities for the Dutch government as well. Whereas human rights diplomacy is becoming harder to carry out, there are other ways to foster positive sustainable change.

The Netherlands should continue providing (economic) training to women and address the importance of female empowerment. Furthermore, Dutch companies active in Saudi Arabia can participate in this change process by also focusing on the economic participation of women ('corporate social responsibility'). However, an important thing to note is that economic participation does not mean women rights are achieved. As long as the male guardianship system is in place, women will remain second-class citizens.

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