

## Chapter 6

# Taking Time and Distinct Law Types Seriously

## *How the Effects of CSO Laws Vary by Type and Unfold over Time*

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What laws and policies, if any, help or hinder civil society? A growing number of human rights defenders have called attention to the laws that regulate civil society organizations (CSOs) and caution that these laws are part of a global crackdown on the freedom of voluntary association. This chapter asks two questions of this increasingly researched topic. First, do laws and restrictions that appear different in content also have different outcomes? I argue that CSO laws that are qualitatively different have varying effects on civil society, democratization, and foreign funding levels. The second question asks, how quickly and completely do such laws affect society? While some study CSO laws as having an immediate and complete effect on society, I maintain an important temporal dynamic is at play. This analysis uses a specialized time series model to understand how quickly and for how long changes in CSO laws affect societies. The data are a sample of 2,464 country-year observations from 135 low- and middle-income countries (1994–2013). My findings suggest that the CSO laws studied here—specifically, three distinct types of foreign funding restrictions—affect societies in minimal ways and distribute those effects over decades. These impacts are minimal for two reasons: First, it demonstrates that it is insufficient to study only a narrow type of legal provision without accounting for other rules within the larger regulatory regime. Second, these laws may have stronger impacts on more granular indicators such as the number of CSOs operating in a country and the amount of money they spend. Readers should not interpret these findings to mean that CSO laws are unimportant. Quite the contrary, CSO laws profoundly shape the degree to which citizens can enjoy the fundamental human right to freely

and voluntarily associate. How and why governments use laws to shape the government-CSO relationship is a concerning matter that we cannot afford to misunderstand. This chapter argues that studying only one type of foreign funding restriction oversimplifies CSO laws to the point of distortion.

Drawing on the metaphor of a greenhouse helps us understand the conditions under which CSO laws shape the government-CSO relationship.<sup>1</sup> The metaphor is useful in four ways. First, greenhouses minimize pests and provide a conducive environment for growth. In this metaphor, greenhouses represent the legal institutions that shape the environment for the civil society garden to grow. The legal institutions prevent profiteers from abusing the legal form, provide CSOs with rights, and incentivize individuals to start and join voluntary associations. Second, merely having a greenhouse does not guarantee a healthy garden. Including the freedom of association in a constitution or making an international commitment to safeguard human rights does not guarantee such civil liberties. Third, like greenhouses, CSO laws do not erect themselves. Like gardeners, governments are responsible for enacting and maintaining the legal institutions in which civil society exists and grows. Fourth, not all greenhouses are identical, and a greenhouse ideal for one climate is not necessarily appropriate for another. Likewise, the legal institutions erected in liberal democracies may look quite different from those built under autocratic regimes. The former is likely to have all the qualities our mind's eye associates with the perfect greenhouse: optimal growing conditions, ample room to expand, no pests, and minimal disturbance from gardeners. An autocratic gardener, by contrast, builds greenhouses that fail to keep out pests, overheat certain plants, and deny the garden the elements it needs to flourish.

This chapter contributes to the “closing space” literature, a research program studying the global trend in which governments enact restrictive CSO laws to repress and weaken civil society. This pattern of legalized repression occurs when governments enact laws to monitor, repress, and control CSOs within their borders (Carothers 2006; Wiktorowicz 2000; Gershman and Allen 2006; Swiney 2019; Christensen and Weinstein 2013; DeMattee 2020). Discourse within the research suggests that democracies pass permissive laws that help CSOs and protect the freedom of association (World Bank 1997; Kiai 2012), while nondemocratic regimes enact restrictive laws that weaken civil society and undermine the bulwark (Wolff and Poppe 2015; Mendelson 2015; Gyimah-Boadi 1998; Tripp 2017). My primary contribution in this chapter is to assess the “effectiveness” of these CSO laws in 135 countries by replicating data from two studies. I accomplish this by evaluating CSO laws' predicted effects on three concepts comparable across societies: civil society vitality, level of democracy, and foreign funding received. To be precise, I analyze CSO laws as policy interventions and ask the following questions:

Do different legal restrictions have different effects? And how quickly do those legal restrictions affect society? I predict that restrictive legal provisions will dampen civil society vitality, reduce the level of democracy, and decrease foreign funding received. To preview my findings, my analysis finds that restrictive legal provisions have only a nominal impact on the societal indicators we expect them to affect. The implication is that attempts to weaken society with a CSO law—specifically, a foreign funding restriction—will not have a full and immediate impact. My findings also indicate that the effects of legal restrictions vary by type and that those effects unfold over several years and sometimes decades.

The next section of this chapter reviews civil society theory and discusses the “closing space” argument. I then discuss the research design, which uses a specialized time series model to evaluate the impact of these legal restrictions over 20 years in 135 low- and middle-income countries. After discussing the findings, I close the chapter with a challenge to analysts for better conceptualizations within this particular policy domain. Fundamental freedoms are at stake, and research should rise to meet this challenge.

## THEORY

Many disciplines give civil society serious consideration when discussing important issues such as governance, democracy, interpersonal trust, and political behavior (Tocqueville [1835; 1840] 2010a; Putnam 1993; Fukuyama 1995; Aligica 2018; Skocpol and Fiorina 1999; Warren 2001; Grzymała-Busse 2015; E. Ostrom 1990; Mutunga 1999; Johnson and Koyama 2019; Linz and Stepan 1996). Civil society is a broad concept that includes interpersonal ties within society as well as between groups of men and women. Hegel ([1821] 1991) defined *civil society* as that which fulfills the system of needs that exists between the family and the state (ibid., xviii), and later that century Tocqueville described it as voluntary associations of free persons where “self-interest rightly understood” and “habits of the heart” produced the skills and norms necessary for democracy in America (Tocqueville [1835; 1840] 2010a). Inspired by Dewey (1927), Habermas ([1962] 1989), and Gramsci (1971), scholars have conceptualized civil society as a public forum in which citizens voluntarily interact, debate, build social capital, and pursue numerous forms of social and political behavior. For this chapter, I use Mark E. Warren's definition of *civil society* as “the domain of society organized through associative media, in contrast to organization through legally empowered administration (the core of state power and organization), or market transactions mediated by money (the core of economic power and organization)” (Warren 2001, 2011, 377).

Civil society is related to but distinct from CSOs. The distinction is similar to the distinction between an industry and the firms that comprise it.<sup>2</sup> CSOs are the non-market, nongovernmental entities that exist within the civil society domain. These organizations are often legally registered organizations, but some exist as informal groups. CSOs include churches, charitable organizations, private- and public-interest advocacy organizations, social clubs, professional associations, and affinity groups held together by shared interests or ideologies. Thus, I define CSOs broadly as self-governed, private organizations established on the principle of voluntary association for purposes other than political control and economic profit.

Like plants in a greenhouse, CSOs' ability to bear fruit and contribute to positive sociopolitical outcomes is profoundly shaped by the legal institutions that structure their activity. CSO laws have the potential to either bolster or upend democratic transitions and good governance because of the laws that give CSOs positive and negative rights. CSOs use those rights to establish themselves, engage and challenge government, and provide the organizations in which individuals associate freely. Removing these rights diminishes their ability to contribute to positive sociopolitical outcomes directly. As a secondary effect, a weakened civil society limits opportunities for citizens to understand the "science of association," learn how to overcome the weakness of individuals in democratic societies (Tocqueville [1840] 2010b, 902), and develop the political capacity necessary to engage society and make democracy a viable way of life (V. Ostrom 1973, 106–107; 1997, 272–273).

Scholars have offered many frameworks that describe the government-CSO relationship in detail (e.g., Bratton 1989; Brass 2016; Cammett and MacLean 2014; Edwards 2004). Emphasizing an economic rationale, Young (2000, 2006) categorizes CSOs' relationship with the government in three modes: complementary to improve service delivery; supplementary to provide services when the government is unresponsive; and adversarial, where CSOs advocate for better services or policy change. Young's categories are valuable for their ability to transcend contexts, study change over time, and analyze regulatory variation by sectors within a country. Still, these categories do not consider the political context in which the government-CSO relationships unfold. Bratton (1989) provides an alternative framework that focuses on politics to explain a government's posture toward CSOs. Bratton (1989) proposes that a government's confidence in its grip on power determines both the strategies it uses to regulate CSOs and the operating space given to CSOs. Two lower-conflict strategies are monitoring and coordination, while higher-conflict strategies are cooptation and dissolution (ibid., 577–79). Combining Young's economic-centric categories with Bratton's politics-based theory offers a more complete picture of when and how governments regulate CSOs.

There are two caveats worth mentioning. First, it is important not to conflate "low-conflict" with "democratic." Indeed, some nondemocratic regimes have engineered a low-conflict, symbiotic relationship wherein the government permits CSOs to provide public service goods if they limit democratic claims-making (Spires 2011). The second caveat is that no government-CSO relationship is unidirectional or permanent. As "new policies create new politics," governments will change the legal rules that regulate CSOs (Schattschneider 1935, 288). Ultimately, CSO laws comprise the legal institutions that develop over time and constrain CSO behavior and structure the incentives of the government-CSO relationship (DeMattee 2020).

### THE "CLOSING SPACE" ARGUMENT

Researchers have studied CSO laws and regulations for over 35 years (Brass et al. 2018). Human rights defenders have recently drawn our attention to governments around the world that use laws to crack down on CSOs within their borders. Practitioners and scholars refer to this pattern as the "closing space" or "shrinking space" phenomenon. It occurs when nondemocratic regimes enact laws that contain restrictive rules that stifle CSOs. Civil society is the target of these legalized crackdowns because it is often a source of—or resource for—political challengers.

I define *restrictive rules* as those that erode society's trust in CSOs and decrease demand for such organizations. These rules may also empower government agencies to repress and intimidate CSOs and their members, thereby reducing the supply of voluntary associations (Swiney 2019; DeMattee and Swiney 2021; DeMattee 2020). Restrictive rules give the government the authority to choose whether CSOs can self-regulate and the types of CSOs that can emerge (Mayhew 2005; Poppe and Wolff 2015; Maru 2017; Rutzen 2015). Other examples endow regulators with broad discretion to suspend or cancel any organization's legal registration (Ndegwa 1996; Kameri-Mbote 2002; Tiwana and Belay 2010; Hodenfield and Pegus 2013; Gugerty 2017; Maru 2017; Cunningham 2018). Still others give the CSO regulator the ability to intervene in a CSO's internal operations or external activities (Salamon and Toepler 2000; Kameri-Mbote 2002; Mayhew 2005; Hodenfield and Pegus 2013; Poppe and Wolff 2015; Maru 2017; Cunningham 2018) and narrowly specify what CSOs are permitted and forbidden to do with their financial and non-financial resources (Kameri-Mbote 2002; Tiwana and Belay 2010; Hodenfield and Pegus 2013; Appe and Marchesini da Costa 2017; Christensen and Weinstein 2013; Poppe and Wolff 2015; Maru 2017; Sidel 2017). The restrictive rules studied here (i.e., restrictions on foreign funding to locally operating CSOs) are perhaps the most analyzed type of restrictive

legal provision (Dupuy and Prakash 2020; Dupuy, Ron, and Prakash 2015, 2016; Dupuy and Prakash 2017; Carothers 2006; Gershman and Allen 2006; Christensen and Weinstein 2013; Rutzen 2015; Poppe and Wolff 2016; Bromley, Schofer, and Longhofer 2020; Oelberger and Shachter 2021).

The “closing space” argument’s working hypothesis is that restrictive rules are part of new legal institutions meant to weaken civil society so that CSOs are less “problematic” for the current regime. In simpler terms, nondemocratic regimes have an incentive to enact restrictive CSO laws so that they can prolong their stay in power. However, governments encounter incentive problems after they enact laws that restrict foreign funding to locally operating CSOs. The first is that restrictive CSO laws risk upsetting the symbiotic relationship in which governments rely on CSOs to provide unmet public service goods. Low- and middle-income countries may be highly dependent on welfare- and service-oriented CSOs because those domestic and international organizations fulfill fundamental social needs unmet by the government (Bratton 1989; Lorch and Bunk 2017; Spiers 2011; Brass 2016; Toepler, Pape, and Benevolenski 2020; Toepler et al. 2020). CSO laws intended to hinder democracy-promotion activities may dampen service provision and damage the regime’s output legitimacy.

The second incentive problem is that disturbing the flow of foreign funding may decrease the regime’s influence. A country’s laws can direct foreign funding to specific locations. And once at those locations (e.g., deposited at particular banks, placed in escrow at government ministries, or channeled to favored or coopted organizations) the regime has multiple opportunities to use those funds to increase its influence and resource base (Dimitrova 2010, 528–29; Lewis 2013, 329). Centrally planned, large-scale, top-down government-supported aid packages may be especially susceptible to this form of corruption and undermine their effectiveness (Williamson 2010; Easterly and Williamson 2011; Moyo 2009; Coyne and Ryan 2009). The incentive problem is that CSO laws intended to starve CSOs of financial resources may also shrink the regime’s resource base. In the end, a government faces multiple incentive problems concerning how CSO laws affect the regime’s immediate and long-term goals (Lorch and Bunk 2017). As I explain later in this chapter, governments can navigate this incentive problem by allowing partiality to guide enforcement and permitting rules-in-use to deviate from rules-in-form.

In this chapter, I argue that distinct legal restrictions have different effects. There are three distinct restrictions to which I refer. *Prohibitive laws* contain strong language regarding what organizations cannot do (DeMattee 2019a, 1234–35; 2020, 70–72). Such laws are prohibitive and highly restrictive because they prohibit particular activity concerning receiving foreign funding.<sup>3</sup> *Red-tape laws* are moderately restrictive and communicate ex ante

conditions that CSOs must meet before receiving foreign funds (ibid.).<sup>4</sup> *Notification laws*, finally, are minimally restrictive and contain instructions for what organizations must do after receiving foreign funding (ibid.).<sup>5</sup> I maintain that presuming CSO laws are homogenous and studying them as conceptually equivalent distorts their true impacts.

Elsewhere, I have argued that it is best to study CSO laws as bundles of different rules and that various factors (e.g., international commitments to protect human rights, constitutions, preexisting laws, international influence) predict the enactment of distinct law types (DeMattee 2019a, 2019b, 2020). This chapter analyzes law types following coding outlined in Dupuy, Ron, and Prakash (2016), where all laws are treated as identical and DeMattee (2019a, 1237), where qualitatively different laws are recoded as distinct law types. Research has not yet considered whether these distinct restrictions have varying effects on society. In this chapter, I specifically argue that highly restrictive legal provisions have the strongest negative long-run effects, while minimally restrictive legal provisions have the weakest. Moreover, “pooling” all laws together and treating them as identical is misleading because it understates the harm done by highly restrictive laws and overstates the shock of minimally restrictive ones.

My other argument is that societies do not experience the effects of CSO laws immediately. It may be possible for some legal provisions to have a step-wise property whereby the effects are immediate, complete, and permanent. Implementation challenges (Pressman and Wildavsky 1973; Hill and Hupe 2002) and the social world’s complexities make this an unlikely possibility. I argue that the effect of these laws unfolds over time. The following hypotheses make these arguments explicit and testable:

**Hypothesis 1:** Restrictive CSO laws have a negative effect on the dependent variables; however, the magnitude of the effect varies by law type. The effect is strongest for highly restrictive laws and wanes for moderately and minimally restrictive laws.

**Hypothesis 2:** The total effect of enacted laws takes multiple years to affect civil society.

Framed in terms of the analysis, the first hypothesis predicts that each response variable (i.e., civil society vitality, level of democracy, and foreign funding received) will decrease in countries that enact a legal provision restricting foreign funding. The estimated effect will be strongest for highly restrictive laws and smaller for less restrictive types. The second hypothesis predicts that countries do not experience the full effect of the CSO law immediately. Instead, the effect slowly accretes before each response variable regresses to its long-run mean.

## RESEARCH DESIGN

This research design uses an autoregressive distributed lag (ADL) model to assess the dynamic relationship between enacting different CSO laws on three outcomes comparable across societies: civil society vitality, level of democracy, and foreign funding received. Tests show each outcome is nonrandom and correlates with itself over time. I use a general ADL model with no ad hoc restrictions to account for this serial correlation. De Boef and Keele (2008, 186) offer three methodological reasons to use the general model: it makes no assumptions on the lag-lengths at which  $X_t$  influences  $Y_t$ , it is consistently estimated by ordinary least squares, and it is a useful starting point to test the appropriateness of restrictions. And unlike other models that assume a static process whereby “all movement in  $X_t$  translates completely and instantaneously to  $Y_t$ ” (ibid., 188), the general form ADL with one-year lags allows me to discuss each law type’s long-run effect and the speed at which it affects different response variables.

The data analyzed are the observations from recent scholarship studying the adoption of different law types in 138 low- and middle-income countries from 1993 to 2012 (Dupuy, Ron, and Prakash 2016; DeMattee 2019a). Data are organized as a panel dataset with group controls that remove unobserved heterogeneity between different countries. Clustered standard errors account for within-country correlation. The sample includes 2,643 country-year observations from 135 countries from 1994 to 2013.<sup>6</sup> The average number of observations per country is 19.6 (min = 11, max = 20).

### Response Variables

I repeat the analysis three times using the same sample and different response variables to test my findings for robustness. Three concepts serve as response variables: civil society vitality, level of democracy, and foreign funding received. *Civil Society Vitality* is the degree to which civil society and individuals enjoy autonomy from the state and are free to pursue political and civic aims. According to the stated hypotheses, a government’s enactment of a restrictive CSO law should adversely affect CSOs and decrease civil society vitality. The negative effect should be strongest for highly restrictive foreign funding provisions and decrease for moderately and minimally restrictive ones. I measure the concept using the civil society robustness index formed by taking the point estimates from a Bayesian factor analysis model of indicators measuring CSO entry and exit, government repression of CSO, and CSO participatory environment (Coppedge et al. 2018, 237–38). The index is an interval (0 = low robustness, 1 = high robustness) produced by the Varieties of Democracy Project (V-Dem).

*Level of Democracy* is the second response variable. This concept represents the presence of both democratic and autocratic institutions. Democratic institutions constrain executive power, guarantee civil liberties, and allow citizens to express their preferences concerning policies and leaders. Autocratic institutions, by contrast, are those that suppress participation, restrict political competition, and nominally constrain the chief executive. Conceptualized this way, higher levels of democracy have more democratic institutions and fewer autocratic ones. Following the theory that suggests a positive relationship exists between civil society and democracy, the stated hypotheses predict that enacting restrictive CSO laws undermines the bulwark and decreases democracy in a society. I measure the concept using the Freedom House/Imputed Polity variable produced by V-Dem (ibid., 290). The variable uses Freedom House Political Rights and Civil Liberties values and the original Polity2 variable to impute values for countries where Polity data are missing. The continuous measure ranges from least democratic to most democratic (0 = autocracy, 10 = democracy) and has stronger validity and reliability than its component indicators (Hadenius and Teorell 2005).

*Foreign Funding Received* is the third response variable. Restrictive foreign funding legal provisions may affect foreign funding received in two ways. The first process is the direct effect of enacting a restrictive provision. Each type of CSO law increases the transaction costs CSOs face to obtain financial resources from foreign sources.<sup>7</sup> These sources may include international organizations, government agencies, and private funders. The second process unfolds when a foreign government withholds bilateral assistance because a regime enacted a restrictive CSO law. For example, the Cold War’s geopolitics led many countries to overlook Kenyan president Daniel arap Moi’s authoritarianism and human rights abuses. This arrangement persisted as long as both Kenya’s president remained an ally to the West on the international stage (Branch 2011, 142, 151, 172) and the USSR remained a credible threat to Western interests. After the Cold War ended, however, Kenya’s strategic location and anti-communist position lost considerable importance. In turn, the international community devalued President Moi’s strategic importance and international assistance became conditional on political and economic reforms (Brass 2016, 67; Branch 2011, 185; Mutua 2008, 68; Haugerud 1995, 14, 202). It is beyond this chapter’s scope to determine what causal process accounts for variation in foreign funding received. According to the stated hypotheses, a government’s enactment of a foreign funding restriction should decrease foreign funding received. I measure foreign funding received using net official development assistance received (constant 2014 US\$) normalized on a per capita basis. The World Development Indicators (World Bank 2018) provide country-year data for both population and net official development assistance. I add a one-year lag to these response variables to account for

autocorrelation. The appendix contains a table summarizing the descriptive statistics for all variables.

### Independent Variables

Testing the stated hypotheses requires analyzing the effects of different CSO law types. The four types I study here—pooled (laws are identical), prohibitive (highly restrictive), red-tape (moderately restrictive), and notification laws (minimally restrictive)—follow the coding outlined in prior research (Dupuy, Ron, and Prakash 2016; DeMattee 2019a). *Pooled* is the default coding for whether a country adopted any type of CSO law. This category is nondiscriminatory and analyzes all laws as if they are identical. *Prohibitive laws* are highly restrictive and contain strong language regarding what organizations cannot do. Laws are prohibitive/highly restrictive if they prohibit particular activity concerning receiving foreign funding. *Red-tape laws* are moderately restrictive and communicate ex ante conditions that civil society organizations must meet before receiving foreign funds. *Notification laws*, finally, are minimally restrictive and contain instructions for what organizations must do after receiving foreign funding. The coding protocol used terms such as “notification,” “reporting,” and “taxation” to code notification/minimally restrictive laws (DeMattee 2019a, 1237). Table 6.1 defines each law type and provides relevant examples. The binary variable for all categories switches from 0 to 1 in the year the country adopted the law and retains that value for the rest of its observations. I add one-year lags to model to estimate the speed at which laws affect the response variable.

### Control Variables

My analysis uses four control variables. *International Commitment to Guard Civil and Political Rights* (*Commitment to Guard Human Rights* for short) provides information on a country’s formal commitment to the international community to support human rights. Making such a commitment creates a preexisting institution that retards attempts to undermine civil and political rights (e.g., enacting restrictive CSO laws). I measure this concept as whether a country ratifies the International Covenant on Civil and Political Rights (ICCPR), which commits its parties to promote human rights and fundamental freedoms, such as voluntary association (Donnelly 2013; Henkin 2000). The binary variable switches from 0 to 1 in the year a country ratified the ICCPR according to the UN Office of Legal Affairs.

*Constitutional Rules Strengthen International Commitments* (*Constitution Bolsters Commitments* for short) represents constitutional systems that explicitly place international treaties such as the ICCPR above ordinary legislation.

**Table 6.1** Continuum of Restrictive CSO Laws

	Notification Laws	Red-Tape Laws	Prohibitive Laws
Level of Restrictions	Minimal	Moderate	High
Definition	Impose ex-post instructions for what CSOs must do after receiving foreign funding.	Erect ex ante conditions that CSOs must meet before receiving funds.	Contain strong language forbidding certain CSO activities.
Examples	<ul style="list-style-type: none"> <li>•Caps on funding</li> <li>•Must not exceed threshold of budget spent on overhead</li> <li>•Must pay taxes on unrelated business activities</li> <li>•Must provide an annual report of financial flows</li> <li>•CSOs must follow reporting requirements</li> <li>•Taxation of foreign funding</li> </ul>	<ul style="list-style-type: none"> <li>•CSO allows the government to monitor financing agreements and contracts</li> <li>•Must route money through government financial institution</li> <li>•CSOs must be approved to receive funds</li> <li>•One-time approval for all future transactions</li> <li>•Government approval is necessary for each transaction</li> </ul>	<ul style="list-style-type: none"> <li>•Foreign funding prohibited</li> <li>•Certain CSOs forbidden to receive foreign funds</li> <li>•CSOs cannot operate in a sector if they received foreign funds</li> <li>•Restrictions on the source of funds</li> <li>•Stigmatization of foreign funding</li> <li>•Restrictions on use of funds</li> </ul>

Source: Adapted from (DeMattee 2019a, 1235; 2020, 72).

The measure comes from the Comparative Constitutions Project (Elkins, Ginsburg, and Melton 2009, 2014). The variable equals 1 for all constitutional systems that explicitly state international treaties are superior to ordinary legislation. The variable equals 0 if the constitution does not mention international treaties or gives them a status equal or inferior to ordinary legislation.

*Rule of Law* is an index that measures the degree to which laws are fairly enforced and to what extent the actions of a government comply with the law. V-Dem calculates the index as a latent variable using a Bayesian factor analysis of fifteen indicators (Coppedge et al. 2018, 235–236). Methodologists show the index is superior to using a single indicator or averaging several measures (Linzer and Staton 2015).

Finally, the World Development Indicators collection (World Bank 2018) provides country-year data for population and GDP (constant 2010 US\$). I

normalize GDP on a per capita basis to produce the control variable *Economic Development*. I include one-year lags for each of these control variables to account for serial correlation in the response variable.<sup>8</sup>

## FINDINGS AND IMPLICATIONS

This section contains one subsection for each research question and hypothesis presented above. The data justifies using a specialized time series model to assess the dynamic relationship between the enactment of different law types on three response variables (see table 6.4 in the appendix). In each panel, the lagged response variable (LRV) is large and robust across model specifications. The coefficient represents the “temporal stickiness” of the response variable (i.e., the amount of variation in  $Y_t$  explained by  $Y_{t-1}$ ) with higher values indicating a stronger temporal interdependency. In time series analysis parlance, this temporal interdependency is known as “autocorrelation” or “serial correlation” (Box-Steffensmeier et al. 2014). The LRVs for civil society vitality (0.97,  $p < 0.001$ ) and level of democracy (0.95,  $p < 0.001$ ) have similar levels of autocorrelation. And while the LRV for foreign funding received has less temporal interdependency (0.79,  $p < 0.001$ ), the response variable is serially correlated and nonrandom.

### Highly Restrictive CSO Laws Are Associated with a Weaker Civil Society over Time

My analysis provides straightforward estimates for the contemporaneous effects of each law type (i.e., pooled, prohibitive, red-tape, and notification) on three response variables: civil society vitality (table 6.4, first panel), level of democracy (table 6.4, second panel), and foreign funding received (table 6.4, third panel). The sample and model specifications are consistent across response variables. I begin with civil society vitality which has a sample mean of 0.67 (0 to 1 scale) and demonstrates significant autocorrelation. The immediate average enforcement effect across all law types (model 2, “pooled”) is  $-0.002$  ( $p = 0.86$ ), which is negligible with respect to the sample mean. For prohibitive laws (model 3), the immediate enforcement effect is  $-0.016$  ( $p < 0.05$ ), which is relatively much larger than the pooled laws but still quite small compared to the response variable’s sample mean. The immediate average enforcement effect is nearly zero for red-tape laws (model 4,  $p = 0.99$ ) and notification laws (model 5,  $p = 0.54$ ). Comparing the immediate average enforcement effects across law types shows prohibitive laws have the largest immediate impact on civil society robustness. This variation in effect sizes provides initial evidence supporting my first hypothesis that argues that the effect of CSO laws varies by law type.

Effect sizes also vary across law types in the other response variables. Level of democracy has a sample mean of 5.70 (0 to 10 scale) and shows signs of strong autocorrelation. As predicted by my first hypothesis, prohibitive laws have the strongest negative effect on level of democracy ( $-0.033$ ,  $p = 0.64$ ). Although the effect is small compared to the response variable’s sample mean, it is double the estimated effect size of pooled laws ( $-0.015$ ,  $p = 0.81$ ) and notification laws ( $-0.016$ ,  $p = 0.82$ ). Red-tape laws, meanwhile, have a slightly positive short-term effect on level of democracy (0.009,  $p = 0.90$ ). None of these immediate effects are statistically significant on level of democracy. These null results do not mean CSO laws are irrelevant and may reflect the slow speed at which political institutions change.

The foreign funding received variable, which has a sample mean of \$54.58, shows indications of autocorrelation and a similar pattern as the other response variables. Prohibitive laws have the strongest negative impact ( $-7.639$ ,  $p = 0.12$ ), followed closely by notification laws ( $-6.837$ ,  $p = 0.08$ ). The estimated effects for pooled ( $-2.129$ ,  $p = 0.46$ ) and red-tape laws ( $-1.804$ ,  $p = 0.57$ ) are both weaker. Taken together, this variation in effect sizes within three different response variables provides evidence supporting my argument that the effect of CSO laws varies by law type. These short-run effects, however, represent only the contemporaneous effect of law type on the response variable. In the next section, I show that each law’s long-run effect is much larger than the immediate effect and that these long-run effects take years and sometimes decades to play out fully.

### Temporal Dynamics of Different Laws

Table 6.2 provides information concerning the degree to which different foreign funding restrictions in CSO laws affect society. The first column repeats the immediate effect across three response variables, and the second column shows the estimated long-run effect of each CSO law type. I display the long-run effect in table 6.2 as an aggregate value. Readers should interpret these effects with caution due to the lack of statistical significance of coefficients (see table 6.4 in the appendix). Furthermore, this long-run effect is distributed over multiple years rather than experienced in a single moment. The third column, mean lag length, represents the average amount of time it takes for the long-run effect to play out fully.<sup>9</sup>

Comparing immediate and long-run effects shows that the latter are much larger in all cases. Comparing these long-run effects across law type provides additional support for my first hypothesis that the effects of CSO laws vary by law type. For all response variables, prohibitive laws’ long-run effects are generally two to three times larger than other law types. The aggregate long-run effect of a prohibitive foreign funding restriction decreases civil society

Table 6.2 Estimated Temporal Dynamic of CSO Law Types

	Immediate Effect	Long-Run Effect	Mean Lag Length (yrs.)
<i>Civil Society Vitality</i> (sample mean: 0.67)			
Pooled Law	<0.00	-0.21	29.4
Prohibitive Law	-0.02	-0.47	29.3
Red-Tape Law	<0.00	-0.16	30.6
Notification Law	-0.01	-0.23	30.4
<i>Level of Democracy</i> (sample mean: 5.70)			
Pooled Law	-0.02	-0.64	17.6
Prohibitive Law	-0.03	-1.21	17.7
Red-Tape Law	0.01	-0.44	17.8
Notification Law	-0.02	0.29	17.9
<i>Foreign Funding Received</i> (sample mean: 54.58)			
Pooled Law	-2.13	-11.65	3.8
Prohibitive Law	-7.64	-24.84	3.8
Red-Tape Law	-1.80	-2.58	3.8
Notification Law	-6.84	-24.04	3.8

Source: Author created.

vitality by a value equal to 70 percent of the sample mean (-0.47). This non-trivial effect is stronger than pooled laws (-0.21), red-tape laws (-0.16), and notification laws (-0.23). The long-run effect of a prohibitive restriction decreases level of democracy by a value equal to 21 percent of the sample mean (-1.21). This effect is stronger than pooled laws (-0.64), red-tape laws (-0.44), and notification laws (0.29). Finally, the long-run effect of enacting a prohibitive law decreases foreign funding received by a value equal to 46 percent of the sample mean (-24.84).

Regardless of law type, it takes approximately 30 years for any foreign funding restriction to fully affect civil society vitality (table 6.2, third column). This does not mean that the long-run effect is in place for 30 years. It means instead that society experiences portions of the total, long-run effect throughout the three-decade period. The same is true for other response variables. The long-run effect of any foreign funding restriction takes nearly eighteen years to play out fully with respect to level of democracy but only four years for foreign funding received. These findings support my second hypothesis that it takes multiple years for foreign funding restrictions to affect society. Moreover, the analysis suggests that the time it takes for the long-run effect to run its course depends on the response variable.

## CONCLUSION

“Public policy is whatever governments choose to do or not to do” (Dye [1972] 2013, 3), and whatever laws and policies governments enact to regulate civil society can either help or hinder it. In this chapter, I used a time-based approach to investigate how distinct CSO laws affect society and how quickly those effects unfold. Using a specialized time series model to study a sample of 135 low- and middle-income countries, I find that CSO laws have a minimal effect on three high-level response variables, that immediate and long-run effects vary across law types, and that the effect of these laws is not immediate and instead unfolds over several years and sometimes decades. My analysis has only examined the relationship between foreign funding restrictions and high-level measures for civil society, democratization, and foreign funding. A task for future research is to examine whether foreign funding restrictions have a stronger impact on lower-level measures (e.g., the size and number of CSOs present and operating in a country, how much money those CSOs spend, or how many projects they undertake).

My findings are relevant to practitioners and scholars for numerous reasons. First, many analysts treat CSO laws as conceptually equivalent. However, recent work finds different factors predict different law types (DeMattee 2019a, 2020) and has started to trade imprecise binary variables for count variables and cumulative indexes (e.g., Bakke, Mitchell, and Smidt 2020; DeMattee 2020). The findings in this chapter—that distinct CSO laws produce different effects—support this turn toward deeper conceptualizations of the legal institutions that regulate CSOs. Second, many analysts in this research program conduct analyses that model preexisting institutions as nonexistent (for notable exceptions, see Bakke, Mitchell, and Smidt 2020; DeMattee 2019a, 2020). The bias caused by these omitted variables is minimal when laws have only immediate, short-run effects. However, this chapter’s analyses suggest that the long-run effect of CSO laws is much larger than immediate effects. This means that it is necessary to account for preexisting laws and policies when studying how and why governments use laws to regulate CSOs.

This analysis has studied CSO laws as if governments enforce the legal rules they have enacted. This is a tenuous assumption. As many have identified, rules do not enforce themselves, and rules in the book do not always mirror rules in action (Commons 1924; E. Ostrom 2005; McGinnis 2011; V. Ostrom 1976; Pound 1910). Cole (2017, 11–6), working in the Ostroms’s tradition of institutional analysis, offers a typology that distinguishes legal rules (de jure) from working rules (de facto). According to Cole’s typology, Type 1 working rules include formal legal rules that closely resemble working rules. Type 2 working rules emerge when legal rules interact with social norms to

produce working rules that deviate from legal rules. Type 3 working rules are legal rules that share no apparent relation with working rules. A key takeaway of Cole's typology is that we cannot analytically differentiate between Type 1 (no deviation), Type 2 (some deviation), and Type 3 (high deviation) working rules without knowing what the legal rules are *and* how they are enforced. We can locate our analysis in Cole's typology only if we know the rules-in-form and rules-in-use. The implication of this is that we cannot be certain whether a policy effectively incentivizes or constrains behavior without carefully studying them from multiple perspectives.

A limitation of this analysis—like other analyses studying CSO laws—has been the assumption that CSO laws are Type 1 working rules. Acknowledging the difference between rules-in-form and rules-in-use is critical because scholars have identified the inconsistent, subnational enforcement of permissive and restrictive rules in countries such as Algeria, Ethiopia, Kenya, Mozambique, North Korea, and Russia (Snyder 2007; Toepler, Pape, and Benevolenski 2020; Cunningham 2018; DeMattee 2020; Lorch and Bunk 2017). This legal-rules versus working-rules differential is perhaps the least studied yet most important agenda in the research program studying CSO laws.

APPENDIX

Table 6.3 Descriptive Statistics

	Percent	Mean	Std. Dev.	Min	Max.
Response Variables					
Civil Society Vitality		0.7	0.25	0.02	0.98
Level of Democracy		5.7	2.86	0.00	10.00
Foreign Funding Received		54.7	78.34	0.01	928.66
CSO Law Types					
Pooled Law	0.12			0	1
Prohibitive Law	0.03			0	1
Red-Tape Law	0.09			0	1
Notification Law	0.05			0	1
Control Variables					
Constitution Bolsters Commitments	0.26			0	1
Commitment to Guard Human Rights	0.76			0	1
Rule of Law		0.5	0.27	0.02	0.98
Economic Development		4913.9	7239.58	115.79	72670.96
Years		2003.6	5.72	1994	2013

Source: Author created.

Table 6.4 Estimated Contemporaneous Effects of CSO Law Types

	(1) Baseline	(2) Pooled	(3) Prohibitive	(4) Red-Tape	(5) Notification
RV: Civil Society Vitality					
Civil Society Vitality (lag)	0.969***	0.967***	0.967***	0.968***	0.968***
Pooled Law <sup>a</sup>		-0.002			
Pooled Law (lag)		-0.005			
Prohibitive Law <sup>a</sup>			-0.016*		
Prohibitive Law (lag)			<0.000		
Red-Tape Law <sup>a</sup>				<0.000	
Red-Tape Law (lag)				-0.005	
Notification Law <sup>a</sup>					
Notification Law (lag)					
Control Variables <sup>b</sup>	YES	YES	YES	YES	
R <sup>2</sup>	0.975	0.975	0.975	0.975	
AIC	-9509	-9512	-9516	-9508	
RV: Level of Democracy					
Level of Democracy (lag)	0.947***	0.946***	0.946***	0.947***	0.947***
Pooled Law <sup>a</sup>		-0.015			
Pooled Law (lag)		-0.020			
Prohibitive Law <sup>a</sup>			-0.033		
Prohibitive Law (lag)			-0.032		
Red-Tape Law <sup>a</sup>				0.009	
Red-Tape Law (lag)				-0.033	
Notification Law <sup>a</sup>					
Notification Law (lag)					
Control Variables <sup>b</sup>	YES	YES	YES	YES	
R <sup>2</sup>	0.962	0.962	0.962	0.962	

(Continued)

Table 6.4 Continued

	(1)	(2)	(3)	(4)	(5)
	Baseline	Pooled	Prohibitive	Red-Tape	Notification
AIC	4467	4470	4470	4471	4471
RV: Foreign Funding Received					
Foreign Funding Received (lag)	0.793***	0.739***	0.793***	0.793***	0.792***
Pooled Law <sup>a</sup>		-2.129			
Pooled Law (lag)		-0.284			
Prohibitive Law <sup>a</sup>			-7.639		
Prohibitive Law (lag)			2.490		
Red-Tape Law <sup>a</sup>				-1.804	
Red-Tape Law (lag)				1.272	
Notification Law <sup>a</sup>					
Notification Law (lag)					
Control Variables <sup>b</sup>	YES	YES	YES	YES	YES
R <sup>2</sup>	0.682	0.682	0.682	0.682	0.682
AIC	27542	27545	27545	27546	27544
Observations / Countries	2643 / 135	2643 / 135	2643 / 135	2643 / 135	2643 / 135
Degrees of Freedom	9	11	11	11	11

Note: Sample and model specifications consistent across all response variables.

<sup>a</sup> Independent variable measuring the contemporaneous effect on the response variable.

<sup>b</sup> Control variables include contemporaneous and lagged effects for Constitution Bolsters Commitments, Commitment to Guard Human Rights, Rule of Law, and Economic Development.

\* p<0.05, \*\* p<0.01, \*\*\* p<0.001

Source: Author created.

## NOTES

1. This is an extension of the familiar “gardener who tends a plant” metaphor mentioned by Hayek (1944, 18).

2. I thank Professor William Blomquist for this comparison.

3. Highly restrictive laws contain at least one of the following nine provisions: (1) certain organizations are prohibited from receiving foreign funding; (2) certain types of organizations are prohibited from receiving foreign funding; (3) foreign-funded organizations are prohibited from carrying out particular activities; (4) foreign funding can be used only for certain purposes; (5) foreign funding prohibited; (6) foreign funding prohibited for certain activities; (7) foreign-funded NGOs prohibited from working on certain issue areas; (8) foreign-funded organizations prohibited from carrying out particular activities; (9) and use of foreign funding prohibited for particular activities.

4. Moderately restrictive laws contain at least one of the following twelve provisions: (1) government approval for foreign funding; (2) government approval required for particular uses of foreign funding; (3) government may cap the amount; (4) government monitoring of NGO contracts financed with foreign funding; (5) government restrictions on use and source; (6) government restrictions on whether foreign funding can be received; (7) other restrictions on use of foreign funding; (8) requirements for how organizations can receive foreign funding; (9) restrictions on certain types of organizations receiving foreign funding; (10) restrictions on receipt and use of foreign funding; (11) restrictions on sources from which foreign funding can be acquired; (12) and restrictions on use of foreign funding.

5. Minimally restrictive laws contain at least one of the following six provisions: (1) foreign funds are taxed; (2) government notification of foreign funding required; (3) organizations must report source of revenues; (4) reporting and accounting requirements; (5) reporting and accounting requirements for foreign funding; (6) and reporting requirements.

6. I removed Montenegro, South Sudan, and Timor-Leste because they had fewer than ten observations.

7. There are three CSO laws types analyzed: (1) those that prohibit particular activity concerning receiving foreign funding (highly restrictive, prohibitive laws); (2) those that institute ex ante conditions that CSOs must meet before receiving foreign funds (moderately restrictive, red-tape laws); and (3) those that instruct CSOs to take certain action after receiving foreign funding (minimally restrictive, notification laws).

8. A limitation of the analysis is that it does not control for any other aspect of economic freedom aside from rule of law. Whether the types of rules governing formal market interactions also influence the durability of CSOs is grounds for future research.

9. I calculate these temporal dynamics following equations (2) and (21), respectively, in De Boef and Keele (2008, 186–87, 194).

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