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Germany's Contested Civil Society in a Time of Politization

Abstract: Growing efforts to shrink civil societies' scope of action are evident around the globe. Germany's civil society has not been fully immune from this, but analysing whether there is a shrinking civic space requires a twofold perspective. While having a high democratic state standard and a rather supportive environment, there is also a discourse of whether it is legitimate for civil society organisations (CSO) to be politically active, following controversial recent lawsuits against CSOs on that ground. Additionally, there is an increasing atmosphere of hate and demonization from some social groups against civil society activists that impede their work and scope of action. Accordingly, there is an ongoing discussion whether Germany's civil society is affected by the shrinking space phenomenon or not. To capture and theoretically comprehend these processes in Germany, I argue that these signs of "shrinking spaces" should rather be understood as a contestation that is the outcome of a growing re-politicization of civil society in the last 15 years. It is rooted in a new wave of politicization in which democracy is no longer an undisputed paradigm. Against this background, over the last decade, civil society has become again a terrain of contestation where different views and options are expressed and collide, but that is also attacked from the outside. Two main changes, I argue, have driven forward the politicization of civil society: first, a new social cleavage that is exploited by (right-wing) populism and, second, the claim for more direct participation in the democratic systems by the citizens which produced new political opportunity structures of good governance that allow more CSOs to advocate. While this process emancipated many CSOs, it also brought forth different contestations about legitimate participation. In this way, one can simultaneously observe a shrinking and a growing space for civil society in Germany.

Keywords: shrinking space, polarization, politization

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1 Introduction

Across the world, civil society organisations (CSOs) and activists work in increasingly hostile environments, which include attacks on their legitimacy and security as well as outright repressive measures. Activists from organized civil society, researchers, and even some alarmed politicians use the metaphor of "shrinking space", as a way of describing a new generation of restrictions on the scope of action for civil society (Carothers and Brechenmacher 2014; Hayes et al. 2017; Toepler et al. 2020). These restrictions include various forms of repression, from attempts to suppress demonstrations and restricting certain forms of financial support, to psychological and physical attacks on CSO members. They are conducted mostly by governments who legitimize these measures within a discourse of national security especially in the course of a war against terrorism, foreign influence, and anti-corruption.

Those developments can increasingly be observed in established democracies as well. The rise of right-wing populist parties in many democratic countries in recent decades enhanced the pressure on many CSOs that are getting attacked by these groups. In many states where right wring populists came into power, such as Hungary or Poland, one could observe their ambitions to capture civil society (Simsa 2019), which entails intimidating critical CSOs and nurturing loyal ones. Having no right-wing populists in government power (albeit in parliamentarian opposition), the situation in Germany is different. Nevertheless, there is a debate on whether there are signs of shrinking spaces for Germany's civil society as well, focused in particular on the withdrawal of the charitable status of organizations which are political active (Alscher et al. 2017; Hummel 2019). Whereas the shrinking spaces for civil society can be seen as a global problem that imperils democratic progress, it might seem inappropriate to compare the oppressive measures of the Russian system against "foreign agents" (Flikke 2018), for example, with the developments in established liberal democracies like Germany. Some authors claim that the relationship between CSOs and the state here is far more complex and rather marked by neglect than harassment, seeing just minor parts of civil society that might be exposed to shrinking space (Anheier and Toepler 2019). It is also problematic to speak of shrinking spaces for civil society when there is an obvious, empirically observable growth in social movements and nonprofit organisations (Hummel 2020). In assessing the situation in Germany, it is more useful to speak of contested rather than shrinking space, because this allows the consideration of legislative or social changes that are restricting or expanding the civic space at the same time in order to get the full picture of the its condition. The question then becomes what the reasons and forces behind this contestation are. I argue that it is driven by a new wave of politicization that can be widely observed in civil society.

New cleavages in society created potential for social conflict and enabled movements on all sides of the political spectrum to politically mobilize an apathetic electorate. This resulted in a polarization in which many formerly un-political issues became highly charged with political positioning; and CSOs are increasingly drawn in this politization. Against this background, civil society has become again a terrain where different views and options are expressed and even collide, much more visible than in the past. My examples from Germany will show the strong impact of the new wave of politization in civil society, which becomes a disputed terrain and is pressured to claim its space and position in the democratic discourse.

The shrinking space issue can largely to be understood as a result of this broader politicization of society that is widely reflected in civil society. I argue that there are two main issues that are the basis of this contestation right now and that led to a stronger politization of civil society: the rise of populism and its polarizing effects on the hand and a growing claim for more direct democracy and the idea of good governance, that brings more CSOs to work politically, on the other. To do so, I will first give a short overview of the framework conditions for political activism for civil society in Germany, followed by a description of the impact of polarization and populism on it. After that, I show the effects of new political opportunities structure for CSO that fuels the debate about political activism within nonprofit charitable law.

2 New Players and New Alliances – The (Re-) Politicization of Civil Society

German civil society contains over 630.000 organisations, but also much informal activism and many social movements (Krimmer 2019; Strachwitz, Priller, and Triebe 2019). Health care, social welfare and sport account for the largest parts of the nonprofit sector, but there is also a growing scene of advocacy and democracy-building CSOs (Priemer, Krimmer, and Labigne 2017). The welfare organisations are playing an important part in society by providing social services on behalf of the state. They have a privileged position against commercial providers in a wel-fare partnership (Salamon and Sokolowski 2018). Consequently, the civil society sector can be divided in a rather state-connected subsector mainly built on public funding and contracting and a smaller, rather independent, privately funded part (ibd.). Additionally, civil society in Germany is also influenced by a long tradition of social movements, which currently peak again with movements like Fridays for Future (Rucht and Teune 2017). The legislative and regulatory framework for CSOs

in Germany is generally favorable and mainly found in tax law. The right to establish an association, the most common form of CSO in Germany, is constituted as a fundamental right (freedom of association, Art. 9 sec. 1 of the Basic Law). The foundation of an association is therefore initially not subject to any conditions, such as a state permit or a registration obligation (Hummel, Pfirter, and Strachwitz 2022). However, associations that wish to participate in legal and business transactions must be registered in the register of associations. CSOs can apply for charitable status which brings tax benefits with it. Article 52 of the Tax Code (AO) defines the areas of activity recognized as charitable purposes, including the promotion of science and research; of religion, youth and elderly care, or art and culture. Political purposes (i.e. influencing the formation of political opinions, promoting political parties, etc.) are generally not counted among the charitable purposes.

For a long time, Germany's political decision-making process was marked by corporatism where a small multiparty system negotiated the political decision-making process in coordination with employers associations, churches, unions and welfare organisations (Strachwitz, Priller, and Triebe 2019). In this perspective, the proper locus of political activism are the political parties, not civil society. However, the parties are embedded in milieus of closely aligned CSOs – the conservative party mainly in the churches, the social democrats in the unions. More recently however, these traditional alliances have started to falter, with the churches moving more towards "the left" (e.g. on the topic of Church asylum for refugees) while the conservative party positioned itself with a more rigid migration policy.

Civil society, as Jürgen Habermas and others conceptualize it, is an anteroom of the political center and a sphere of deliberation – which is the public negotiation and consultation about the common good, in which all those affected by it should be equally involved; in which social problems from the individual sphere get absorbed, condensed and loudly transmitted to the public and infused in the political system (Habermas 2014). The transfer is reliant on mass media and gatekeepers and can only work in cooperation with the established political-legal institutions in order to generate collectively binding decisions (ibd.). In addition, civil society is often conceptualized as a sphere with a set of norms in a sense of norms of a good society, defined by values such as cooperation, nonviolence, and tolerance (Jordan 2011). The new wave of politization shows a serious impact on these concepts and helps explain the discourse on shrinking civic space in a democratic context: Civil society visibly becomes a terrain with contested norms where different views and options collide on the one hand and, on the other, it is full of players that challenge its position as no more than an anteroom of the political sphere, clamoring for more direct participation.

2.1 Civil Society Politization as a Reaction to Populism and Polarization

Civil society politization can be seen as an expression of the wish for broader democratic participation, that came out of a crisis of parliamentarism and representation. From 1983 on, a consistent decrease of voter turnout in Germany – from 90 to 70% by 2009, as well as party and union memberships, brought forth a discourse of political estrangement and apathy of substantial parts of the population (Crouch 2008; Schäfer and Meiering 2020). As a result, it became common to diagnose a crisis of representative democracy, which failed to incorporate the people's desire for more participation and address people's interests and thereby was in danger of losing its legitimacy (Jörke 2010; Rosanvallon 2011).

After the first decade of the new millennium, the crisis of parliamentarism also evoked a counter trend—from apathy to protest—that was substantially carried by civil society. In fact, a new protest culture appeared in the German public and generated substantial attention through large public protests against the Stuttgart 21 project (a long drawn out and over budget rebuilding of the city's central train station) in 2010; the appearance of anti-globalization social movements and initiatives like Occupy Wall Street, which generated publicity by blocking off Frankfurt's banking district in 2011; or the violent protests at the 2017 G20 summit in the streets of Hamburg. A few years later, the anti-climate change movement Fridays for Future mobilized ten thousands of protesters, while conservative, right-wing protests started to culminate and gained visibility with the Pegida[1] marches, especially during the refugee crisis of 2015. The emergence of the right-wing populist party Alternative für Deutschland (AfD) and their successful mobilization of protest voters also ended the era of voter indifference.

One explanation for the awakening protests is often seen in the emergence of a new cleavage that accompanied the rise of a new populism. Specifically, several analysts see a new line of conflict between globalization winners and globalization losers, with antagonistic relations between "cosmopolitans" on the one hand and "communitarians" on the other (Grande and Kriesi 2013; Merkel and Zürn 2019; Reckwitz 2019b). This cleavage goes beyond conflicts about access to resources and income inequality, but extends to cultural and identitarian issues (ibd.). Reckwitz argues that the economic change to a post-industrialized service society, which rewards knowledge work in particular, as well as the expansion of education, led to a change in values towards a "culturally hegemonic guiding value of

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[1] PEGIDA stand for Patriotic Europeans against the Islamization of the West and is an islamo- and xenophobic right-wing extremist movement that was able to generate great media attention with marches in the wake of the Syrian refugee crisis.

individual self-development" (o.T. SH), that devalues the standardized lives and values of the conservative middle class (Rechwitz 2019a, 2019b). The global opening of society in economic, political, and cultural regards is experienced by the latter as a loss of control. Conservative elites as well as groups from the middle and lower classes, who feel devalued in different ways by globalization, form a cross-class protest movement, that currently challenges society in its social cohesion and increases social polarization (Merkel and Zürn 2019). This polarization is traceable in different social groups by oppositional and seemingly unbridgeable differences of opinions on topics like migration, gender mainstreaming or climate change action.

This cleavage has been accompanied by the rise of populist movements which are characterized by anti-elitism, distrust, and hostility towards institutions, as well as a moralization and polarization of politics (Müller 2016). Recent populist parties can be found on both sides of the political spectrum, but right-wing populism currently prevails in Europe (Decker 2021). Populist parties, like AfD in Germany, were able to bring large groups of protest voters back to the polls, with an anti-elitist narrative as their main "selling" point: the framing of a nationalistic "us" as a homogeneous entity in the confrontation of "them" (e.g. social elites and foreigners) and the claim to be the rightful representatives the true will of the people (Mudde 2017; Müller 2016).

This process of politicization can be understood as an increase in the intensity and scope of political conflicts, which affects not only the party system, but civil society as well and is an underappreciated factor in the transformation of civil society in Germany (Grande and Hutter 2016). With the emergence of new civil society associations with socio-political objectives, the emergence of right-wing social movements, the politicization of existing civil society associations, and the counter-mobilization against radical right-wing populism, there are four primary patterns of this conflict-induced politicization of civil society (Grande et al. 2021). In this, both the rise of populist movements and the antagonistic social configuration have a serious impact on civil society because it leads to a more observable conflict between conservative, right-wing and left-liberal parts of civil society, as well as the vilification of some CSOs and even civil society as such by populist groups.

Right-wing populists started to frame civil society as an enemy, branding them as elitist and of being part of the "left cosmopolitan camp" (Hummel 2021). Mainly there are two defamation arguments against civil society actors in populist rhetoric. The first is the accusation of them being neo-corporatist organizations, in particular the welfare associations, but also the churches, trade unions, and the state-subsidized cultural sector and as such being part of the "establishment" and "embezzling" taxpayers' money (Schroeder et al. 2020). So, as Schroeder et al.

show, it is not just the usual suspects of advocacy organizations, like Amnesty International or anti-rightwing extremism organizations, that are targeted by populists, but all sorts of organisations. They conclude that all fields of civil society can become "political charged", may it be sport, education or even choral associations (ibd.). Organizations do not necessarily have to get directly attacked by right-wing populists to get politicized, but sometimes feel compelled to take a stand for a pluralistic society in a climate of great social polarization, that gets them politized.

Civil society research often distinguishes the civil society landscape between service providers and critical CSOs (Anheier and Toepler 2019), and argues with regard to shrinking spaces that the latter mainly become subject of political harassment or repression, while the former more or less accidently suffer because of the neglect of reform needs (ibd.). This distinction seems implausible when one considers that a conflict-infused politicization has taken hold of many social issues and formerly unpolitical topics, like healthcare or welfare, have forced service providers to take a political stance in public against intolerance and populist agitation. That these processes are getting actively assimilated by CSOs and that more and more CSOs actually do consider themselves more political is reflected in a study, conducted regularly by Civil Society in Numbers (ZiviZ), which show that more advocacy CSOs are being founded and that existing CSOs perceive themselves as politically active (Priemer, Krimmer, and Labigne 2017).

The second anti-civil society line of arguments by populists is that of naïve "do-gooders", especially in connection with migration movements and climate protection, that, so the accusation, will ruin the welfare state and undermine law and order. Often smear campaigns by populists are conducted on very personal levels against individual activists, who are subsequently exposed to massive insults, threats of violence, and intimidation, especially on social media. Questioning the nonprofit status of CSOs is also part of these strategies (Deutscher Bundestag 2021a, 2021b). Civil society becomes a trope of the cosmopolitan enemy that acts against the will and interests of the "real" people, and, in the words of AfD member Björn Höcke in a February 2020 speech: "That's why we will have to drain this so-called civil society, which is financed by millions of taxpayers' money", (o.T, Tageszeitung 2020).

Against this background, many verbal and physical attacks on migrant organizations, refugee aid, left-wing groups, especially racism prevention groups, but also humanitarian aid, women or LGBTQ rights activist, and even environment protectionists have been reported in Germany (Amadeu Antonio Foundation 2020). In reaction, many CSO have started to implement security concepts in their daily work routines, such as non-personalized email addresses and mailboxes or security locks and alarm systems. Some need police protection at events and use

practices of pre-selection of participants via closed registration lists (Sommer and Ratzmann 2021). In a survey, CSOs working on anti-racism and democratic participation in Germany also reported difficulties in recruiting staff due to the chilled/hostile social climate and they fear further harassment and financial cuts if the AfD should come into political power (ibd.). Similar attacks from right-wing populists are globally reported as signs of shrinking spaces for civil society.

From the perspective of a highly politicized and polarized society, this can be read as political party or movement activism to delegitimize political opponents and their world views, in which most CSOs are seen as carriers of a left-liberal cosmopolitan ideology, in an effort to attract support from those parts of the population that are in favour of closed borders, traditional family values or deregulation of business. It can also be seen as legitimate contestation within the political conflict about migration, nationalism, and globalisation. But the growing harassment, and incidences of violent assaults and criminal behaviour, is leaving the political sphere and merging into that of the judiciary prosecution.

In addition to intimidation, troubling signs of shrinking space for civil society also lie in infiltration strategies by undemocratic forces. The idea of a "March through the organizations" that can be found in an AfD strategy paper show the party's ambition of "anchoring itself more strongly in civil society in order to assert its influence there" (AfD: Strategy 2019, p. 37) Attempts at "hijacking" CSOs can be observed in very different fields such as trade unions, educational, sports or cultural organisations, churches, but also in environmental organisations (Hummel 2021). As a counterreaction to this, one can witnesses serval acts of "taking a stand" by large service providers, cultural or sports associations, and combined campaigning against racism or hate crimes (Schroeder et al. 2020).

There are also signs of building a "counter-civil society" by right-wing populist movements and networks that formally use civil society structures. Network analyses of right-wing movements show almost all possible civil society legal forms; from nonprofit associations to foundations[2] (Fuchs and Mittelhoff 2019). These structures of nonprofit status offer the actors, on the one hand, operational possibilities (through legal protections), but also the chance of feigning deradicalization by benefitting from the high reputation and trustworthiness of CSOs in society.

This shows how the new cleavage has several impacts on civil society and its scope of action. These developments lead to a more observable conflict between right-wing, conservative, liberal and leftist parts of civil society, as well as the

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2 For example, there is the Desiderius Erasmus Foundation (party-affiliated foundation of the AfD), the Arbeitskreis für deutsche Dichtung e.V., or the European Institute for Climate and Energy e.V., or the Erich and Erna Kronauer Foundation.

vilification of CSOs by populists. The surge of voluntary aid during the refugee crisis in 2015 led to a acknowledgement of civil society's capacity in society (Grande et al. 2021), but it also boosted polarization tendencies, as many CSOs were accused of wrongdoing not only by right wring groups but also conservative politicians. Harassment, discrimination, and stigmatization of CSO that happens in the context of a new social cleavage and the rise of populism should feature more prominently in the shrinking space discourse.

2.2 New Political Opportunity Structures for CSO

Also contributing to civil society politization are institutional changes altering the space for civil society that are caused by demands for more participation in the political decision-making process and which opened up new political opportunity structures for CSOs. The term opportunity structure means the ability of a political system to transfer and to integrate newly forming social interests into the process of political decision-making (McAdam, McCarthy, and Zald 1996). Primary developments in this respect are the formal creation of instruments of direct democracy on the one hand, and greater use of expert committees on the other.

Since the 1990s, a significant increase of direct democracy practices can be observed in the federal states including the use of public referenda. All 16 federal states in Germany now have instruments of direct democracy anchored in their constitutions, greatly diversifying options for political participation. Additionally, more instruments are tested and implemented in communities, such as Citizens' Forums (Alcantara et al. 2016). Citizens' forums are commissions whose members are randomly selected by the state. Moreover, political scientists have observed an increasing delegation of political planning and decision-making towards non-elected institutions and external expert commissions (Schäfer and Zürn 2021). It is not quite clear how many consultative committees there are across all political levels in Germany. On the federal level, there are an estimated 80 to more than 300 (Schröder et al. 2010). For example, there are expert councils for environmental matters, for digitalization, or for migration or health issues. For CSOs, these provide new opportunities for advocacy when they get appointed.

These developments mark a shift away from the corporatist style political decision-making in Germany, which included few organisations represented large memberships, such as unions, to an approach of good governance that strives to include a more pluralistic and diverse set of stakeholders into the political process (Kjaer 2015; Mayntz 2004). Regarding civil society, citizen petitions and assemblies, but also the increasing delegation of political decisions towards expert commissions, create new opportunity structures to be heard and to be influential.

CSOs can use these new participatory instruments to bring attention to their causes and the social problems they tackle. Having the capacity for mobilization and community-based connection and networks these news forms of petitioning give them the opportunity for easier access for/to political attention. Due to digitalization it also became easier to raise attention and support for petitions, which brings more weight to this form of acclamation building.

This broadening of political access points combined with their growing acceptance as legitimate experts and political shareholders by the established political players furthered a growth of CSO influence (Thiers et al. 2021). That CSOs were gaining more status of legitimate political stakeholders could be observed in particular on the international level and their institutions for some time and brought forth the slogan of the "NGOization of world politics" (Brunnegräber et al. 2001; Kohler Koch 2011; Zürn 2013). This growing recognition as a political stakeholder at the national level, however, comes with contestations about the democratic legitimation of CSOs, as their right to participate in policymaking requires justification, as often demanded by the established political parties. As the traditional corporatist interest representations, such as unions, are losing significance and face a weakening of their claims to representation with declining membership (Sack and Strünck 2017), political debates over division of power and influence among various civil society actors are fluid.

2.2.1 Legal Challenges

The new political opportunity structures thus come with ground fights due to defensive reactions from established political players: while there are better opportunity structures for a more diverse set of CSO to advocate and to participate in the political process on the one hand, the legal ground for CSO to act politically is a heavily disputed contestation on the other. In Germany's parliamentarian system, the political parties are typically seen as the principal venue for political activism. This comes out of the tradition of parliamentarianism, not presidential model of representative democracy, which has no or barely any direct democratic heritage in its institutions and puts much emphasis on the important role of parties as political players (Rudzio 2018). The Basic Law's article 21(1) states that: "Political parties shall participate in the formation of the political will of the people" which was long interpreted to mean that parties, by virtue of being specifically mentioned, are the most important and ultimately only intermediaries in the political process. This perception is reflected by nonprofit law which allows political activism only with very narrow limits. Political activism in Germany is not a charitable purpose by itself, and can only be pursued in conjunction with a charitable purpose, such as environment protection, to be eligible for tax benefits.

The withdrawal of tax-exempt status from ATTAC, a leftist anti-globalization organization, by a tax court in 2014 was a watershed moment in this regard. Confirmed in 2019 by the Federal Tax Court, the courts found that ATTAC's primary purpose was to influence the formation of the political will and the public opinion, which is not a charitable purpose in the sense of the nonprofit tax code on its own. The rulings drew wide-spread attention, raised concerns and fostered insecurity among a broad range of German CSOs which began to see their ability imperiled to pursue advocacy work, such as human rights protection or anti-discrimination work, without potentially jeopardizing their charitable status as well (Diefenbach-Trommer 2018; Hummel 2020). Another prominent incidence that followed the ATTAC lawsuit was Campact, a crowdfunding and campaigning platform for petitions which lost its charitable status on the same grounds (AfRS 2022). These incidental court rulings are assumed to have chilling effects on other CSOs; driving them away from political activism for fear of losing their charitable status and credibility and trustworthiness in the eyes of donors (Diefenbach-Trommer 2018). Accordingly, around 200 associations and foundations that felt restricted in their work by the lack of legal clarity resulting from the court rulings have joined the alliance "Legal Certainty for Political Decision-Making" to lobby for a modernization of nonprofit law and to secure public interest political activism. Its members include Amnesty International, Attac, Oxfam Transparency International and Terre des Hommes (AfRS 2022).

The legal uncertainties were the subject of governmental hearings, and in January 2022, changes were made in the tax code that clarified that an association does not endanger its nonprofit status if it "occasionally takes a position on day-to-day political issues". With this change, f.e., a sports club can publicly express concern about a racist attack without endangering its tax status (Deutscher Bundestag 2021b). But the reform did not remove all legal uncertainties due to vague phrasing, and the appropriate place for CSOs in the political decision-making process remains an ongoing debate.

Not merely a technical issue of legal interpretation, these charitable status disputes reflect the broader shrinking space debate, as the tax status got repeatedly instrumentalized by political parties to act against inconvenient CSOs in recent years. This was the case with Deutsche Umwelthilfe e.V., an association that works on climate and consumer protection, which got accused of wrongdoing by the conservative party CDU, or the animal protection organization PETA which got accused by the liberal party FDP of illegally trespassing onto chicken farms. In both cases, their charitable status was called into question (Deutscher Bundestag 2018; Hummel 2020). The finance committee of the German parliament held public hearings in response, but saw no concrete need for action: incitement to, or participation in, criminal offences, unless they are in the statutes, were not found

to be a reason for withdrawal of charitable status (German Bundestag 2021b). For the right-wing populist party AfD, questioning the credibility of CSOs that works in refugee aid, human rights, gender equality, or climate protection, is part of its daily business in the parliament (Heinze 2021).

Questioning the integrity of CSOs that are perceived as political opponents is thus becoming normalized as an acceptable instrument of political behavior. Discrediting CSOs is a way for the political parties to defend their turf against new players which, in their eyes, have no democratic and constitutional legitimacy to form the political will, but have gained influence and the ability to mount public pressure. While CSOs claim their right to participate and to engage as political players, this contestation about their legitimate place at the table will continue in the foreseeable future. In sum, new political opportunity structures have given many CSOs more space and credit as political players, on the one hand, but are also causing contestation with the established players which don't want their power to be diluted. And while in Germany there is no authoritarian-style legislation directed against CSOs to gag and silence them, there is a vital contestation about the right to participate and who counts as legitimate political stakeholder that can be seen as limiting the expansion of civic space.

3 Conclusion

A discussion of whether there is a 'shrinking civic space ' in Germany must be multifaceted and requires further investigation. This article highlights some of the underlying processes and layers that show why civil society, even in a stable democracy such as Germany's, is nevertheless struggling with signs of shrinking civic space. As I suggest, it is not necessarily an issue of shrinking space, but rather one of contestation about the legitimate space for civil society that is mainly influenced by the increasing politicization of society that creates the current frame for CSOs.

Two main factors, have driven the politicization of civil society: a new social cleavage that is attended by (right wring) populism and polarization on the one hand and the implementation of new political opportunity structures by good governance reforms, on the other, that allow CSOs other than the traditional corporatist umbrella organizations to advocate increasingly and make their political voices heard. Both developments are deeply connected to the current disillusionment that can be observed in nearly all liberal democracies today.

Harassment and stigmatization of CSOs are part of the populist playbook and typical attributes of shrinking space worldwide. In Germany, verbal and physical attacks on organizations working in refugee aid, humanitarian aid or gender equality sector are frequently reported too, which forces many of them to

implement security concepts. These CSOs often stand in the middle of politized debates about identity politics and the political and cultural fight about gender roles, national security, and membership in a 'postmigrant' society. For proponents of a nationalistic, communitarian concept of society, civil society–represented by groups like ProAsyl, Greenpeace or Fridays for Future, has become the trope of a cosmopolitan milieu or world view that is fundamentally opposed to theirs. Right-wing populists have instigated this conflict by vilifying CSOs, accusing them of being naïve, corrupt, antipatriotic, and of working against the (national) common good. The polarization that is fueled by social cleavages reaches nearly all areas of civil society, forcing health care, sport or culture organizations to make political statements against racism or climate protection in public.

In this changing democratic climate, questions come to the fore of who legitimate political stakeholders are. For civil society, these questions crystallized in the debate about the permissibility of political activism by tax-exempt charitable organizations. The tax law only allows very narrow limits for that, and while many initiatives want to change that, this does not seem likely at the moment. Attempts by political parties to silence critical CSOs by questioning their charitable status and accusing them of acting too political are signs of shrinking spaces. But rather than observing an autocratic move to suppress opposition, these examples highlight how contestation about legitimate access to the political process has changed recently. Parties support the unpolitical nature of charities in nonprofit law and defend their sole role in shaping the political will of the people as per the Basic Law's article 21(1). CSOs, however, refer to the same provision, arguing that it enshrines their right to participate.

The growth of CSO influence on advocacy and regulation comes not without political turbulence and reflects an active contestation of the civic space. Besides the constitutional duty to inform the public, the government has no particular obligation to include and engage with CSOs, which puts them at a disadvantage in comparison to other political stakeholders with more resources or access to the policy-making processes. For CSOs who want to engage and advocate in this process, this means engaging in a conflict of power distribution between established players, such as parties, resourced players like business corporations and 'new' players, like them, and some outcomes of the resulting contestation can be considered as signs of shrinking civic space.

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