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Clouds on the Horizon: Lessons for Canada from Clampdowns and Cuts in Europe's Philanthropic Space

By John Lorinc

This is the final article in our series about European philanthropy. The series is published as a collaboration between The Philanthropist and The Lawson Foundation.

Early in 2018, well before Theresa May's Tory government revealed its contentious proposal for splitting with the European Union, the Hungarian-American philanthropist George Soros placed a £400,000 bet on an outspokenly anti-Brexit lobby group known as Best for Britain. As London's *Evening Standard* observed, somewhat archly, the 87-year-old hedge fund billionaire "has a flair for political intervention."

"He revealed his support for Best for Britain at a dinner at his London home last week, at which he encouraged others to follow his lead," the *Standard* reported. "[H]e had decided it was time for the great clanking armaments of anti-Brexit forces to mobilize."

Across Europe, in fact, Soros has become a lightning rod, his name associated – depending on one's politics – either with a robust defense of liberal democracy or unwelcome capitalist meddling. Case in point: in Hungary, during the April 2018 election, the revanchist government of Prime Minister Viktor Orbán deployed anti-Semitic images of Soros to rally hard right voters to its harsh anti-immigrant agenda. Among other promises, Orbán has pledged to force non-profits involved with migration issues to register with the government's interior ministry. The move was clearly intended to control charities with backing from the Open Society Foundations (OSF), which are endowed with tens of billions from Soros's fortune.

Those developments came on the heels of the Orbán government's threats to shutter the Budapest-based Central European University, which Soros founded after the fall of Communism in 1991. (CEU's current president is former federal Liberal leader and Harvard political scientist Michael Ignatieff.) Numerous academics, as well as foundation heads, decried the threats, but international opprobrium wasn't enough to deter the Orbán government from kicking CEU out of the country. Ignatieff

announced plans late in the year to open a new campus in Vienna.

It wasn't always thus: as recently as 2014, European Commission officials didn't blink at the prospect of publicly collaborating with Soros when launching an uncontroversial, multi-billion-euro program, known as Erasmus+, designed to connect millions of unemployed and poorly educated European young people with training and jobs. Among the strategy's targets: 120,000 Roma youth, who have long been a focus of OSF's advocacy.

But in the four short years since, Soros and some other philanthropic organizations have found themselves in the crosshairs of populist governments that came to power following the wave of illiberal, anti-migrant sentiment that's swept through Hungary, Poland, the Netherlands, Turkey and even Italy, where a newly elected right-wing League government has bulldozed migrant camps and introduced other harsh policies.

The shift in the political environment has cast a pall over non-profits and the philanthropic organizations that back them, said Gerry Salole, CEO of the European Foundation Centre (EFC). "Everyone thinks a seismic change is on its way," he explained during a plenary at the October 2018 Philanthropic Foundations Canada (PFC) conference in Toronto, which focused on the state of European philanthropy. Among Europe's civil society groups, Salole noted, "I'd say this is a big, unifying conversation."

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European foundations tend not to have big, unifying conversations, and there's little mystery about why.

According to data from the Donors and Foundations Networks in Europe (DAFNE), there were about 147,000 "public benefit foundations" operating in 24 European countries in 2016. Many are relatively young. The sector has accumulated assets of almost half a trillion Euros and spends about €60 billion annually. But drill down a bit further, and it's apparent that EU charitable activity remains highly concentrated, with just seven countries – Germany, Italy, Spain, France, the Netherlands, the UK and Switzerland – accounting for 90% of funding flows.

Despite this scale, Canada's philanthropic world has established few formal or even informal connections to its European counterparts – a gap *The Philanthropist* has sought to address over the past year with this seven-part series on Europe's charities that has examined topics ranging from the STEM programs supported by large corporate foundations to impact investing and regulatory dynamics. The idea for the series, explains Lawson Foundation executive director Marcel Lauzière, was sparked by a visit earlier this year with European funders at Philanthropy House, in Brussels. "I told myself, we know so little about this," he said. "When I came back, I said we really need to open our eyes to what was going on [in Europe]."

The series, which aims to begin a trans-Atlantic dialogue, also highlighted the diverse ways in which the philanthropic space in Europe has expanded and changed. In the UK, for example, the annual Ross-Council for Advancement and Support of Education (Ross-CASE) survey shows solid results in giving to British post-secondary institutions, with the latest annual tally (2016-2017) close to £1 billion, although the year-over-year growth has slowed somewhat. Individual giving varies from country to country – Northern Europeans give the most, while countries like Spain and Italy lag, according to a 2017 *Alliance Magazine* overview of the state of European philanthropy.

Some countries, like Germany, have tens of thousands of foundations while other EU members, like Ireland, only have a handful. Beyond foundations, the ranks of European venture philanthropy and impact investing funds have grown rapidly in recent years, although the numbers overall remain modest. There's also mounting interest in the potential of social enterprises or community interest companies that, typically, are restricted in their ability to distribute profits. To drive even more capital towards this sector, the Italian government, in 2017, passed new regulations allowing social enterprises to allocate a portion of their profits to shareholders or other organizations.

As in Canada, the *raison d'être* of philanthropic entities varies enormously, encompassing everything from giant medical research groups, like Britain's venerable Wellcome Trust, to church-affiliated organizations and very small family-run funds whose philanthropy is directed inward. Unlike Canada, many European jurisdictions allow for-profit corporations, like Bosch (electronics) and Bertelsmann (publishing), to own and manage their own foundations and direct a portion of their corporate profits into these operations – a structural feature of European philanthropy that really sets it apart from the Canadian sector, observed Hilary Pearson, PFC's outgoing CEO. A few have even more unusual origins, such as a state-established Italian foundation that uses the proceeds of crime confiscated from the Mafia. "We're not like Europe and Europe is not like us," she said.

Despite those differences, Lauzière noted that many European and Canadian funders have common – and indeed global – concerns, such as migration or diabetes. Yet the European foundation sector has tended to take a broader approach to these issues, including the creation of networks of foundations that facilitate more collaboration. "We can learn a lot from them about pooling resources," he said.

While the regulations and laws governing philanthropic activity in Europe vary widely from jurisdiction to jurisdiction, there's mounting concern within the sector about what some insiders describe as the problem of "shrinking space" for civil society, philanthropists, and NGOs. The accumulation of constraints is "very concerning," observed Peggy Sailer, executive director of the Network of European Foundations (NEF) and a veteran of the humanitarian relief world. Sailer was one of the keynote presenters at the PFC conference. "We consider [shrinking space] to be a European-wide issue," she noted.

In some countries, new restrictions – e.g., on using international funds for domestic projects – have created new constraints on philanthropic activity. "This," she said, "is something we never would have imagined 10 years ago." As Lauzière mused, the European experience right now is like a "canary in the coal mine."

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In early 2015, senior officials with Britain's Charity Commission embarked on a high stakes pressure

campaign to force two prominent UK foundations – the Joseph Rowntree Charitable Trust (JRCT) and the Anita Roddick Foundation – to stop funding a small non-profit that assisted former Guantanamo Bay prisoners and ISIS fighters, and which had been receiving grants since 2007. As *The Guardian* reported in 2016, court documents later revealed that the Commission’s chair, William Shawcross, had met with US counter-terrorism officials who told him that Cage, as the charity was known, should have long ago been “exposed for what it is – a jihadist front.”

Acting on these tips, Shawcross, a journalist and author known for his hawkish views, appears to have ordered the Commission’s officials to use their regulatory authority to press Rowntree and Roddick to turn off the philanthropic taps. Given its role as the body overseeing 165,000 UK charities, the Commission had ample leverage, and JRCT reluctantly capitulated.

But Cage fought back with a lawsuit, and the case eventually ended up before a panel of judges. At trial, JRCT officials testified that they faced the possibility of a Commission investigation if they didn’t agree to defund Cage. The Commission denied allegations of political meddling, although documents introduced in court showed quite the opposite. In a landmark ruling that settled the case, the Commission was ordered to back off its public statements that foundations should stop funding Cage. (In other similar conflicts between NGOs and regulators, the EFC has stepped in to provide legal heft.)

As a senior Cage director said to *The Guardian*, “The Charity Commission has today been forced to climb down from its previous position. Cage is grateful for the wide-ranging support it has received. This is an important vindication of our position. We know this will come as a relief to the whole charity sector and the attempt to interfere with the lawful activities of civil society has been blocked.”

The context of the Cage case is, of course, impossible to ignore. In the post 9/11, post-2008 credit crisis era, intense international attention has come to focus on concerns such as terrorist financing, money-laundering, and tax havens, as well as an ever-expanding spectrum of financial threats to global security. While multi-lateral institutions have clamped down on banks and unregulated trade in exotic investment vehicles, charities during this period have also come in for far greater scrutiny, and not just in Europe.

Salole pointed out many charities have been living with the realities of the post-9/11 world for many years. The Patriot Act, passed hastily after the attacks, required foundations to know a lot more about grantees and the directors of the charities receiving funds, while EU anti-money laundering laws have been strict for many years. But, he adds, an EU taskforce on terrorism financing concluded, about a year and a half ago, that the non-profit world was no more susceptible to such activities than the corporate world – an important finding that allowed the EFC to successfully lobby for changes in regulatory language.

Still, Salole said in an interview at the PFC conference, the Rowntree case “shows we have to be much more careful. People are concerned about accountability and legitimacy and who gives foundations the right to make decisions . . . This is a real issue and it’s catching everyone by surprise.”

Sailler pointed to heightened scrutiny directed at NGOs working on “anti-radicalization” projects in the wake of recent terrorist attacks in France. French authorities, she says, responded with moves to restrict funding from international sources.

Yet the broader clampdown directed at the charitable sector, she and others added, isn’t just been about

fundraising and suspicions about terrorist financing. The European Union's sweeping new data privacy laws have limited the charitable sector's ability to collect information on donors. In other cases, regulators have zeroed in on hot-button topics like executive compensation levels among senior NGO managers or revelations about dubious practices, such as major cultural venues allowing supporters to profit by reselling tickets. Calls for more transparency (not to mention board and senior staff diversity) have also come from younger NGO and foundation employees who want some traditionally discrete funders to be more forthcoming about the sources of their own capital.

Salole observed that some of the increased scrutiny is actually a policy response to the recognition that some charity-backed social programs have backfired, producing unintended consequences or exacerbating existing problems. During the PFC conference, one presenter described an NGO-supported program meant to reduce teenage pregnancy. A subsequent impact analysis found the program had actually encouraged more risk-taking behaviour among participants – a perverse outcome.

These shifts are now playing out against the backdrop of Europe's widening embrace of nationalism and toxic populism. Hard-right regimes in Hungary, Poland, and now Italy have either harassed foreign-funded non-profits and foundations or forced some charities to account for their activities.

European philanthropists are keenly aware of the fall-out of anti-migrant politics and the impact on the charitable sector. In England, as in many countries, immigrants staff large swaths of the health care and social services sectors, rendering non-profit service delivery organizations especially vulnerable to post-Brexit visa clampdowns. The prevailing political currents may also cast a chill on foundations and non-profits that seek to support migrants and refugees, especially in cases where projects aren't successful or become tied to a headlining controversy. Such initiatives place charities at odds with populist governments. "You may have dramatically opposed views as to what needs to be done," said Salole.

Yet some foundation leaders say it's critical for funders and charities to not be tone deaf to the politics. "There are lots of reasons why people get angry," commented Luc Tayart de Borms, a panelist at the PFC conference and the Belgian foundation veteran who heads Philanthropy House in Brussels. He characterized populist sentiment as "an early warning system," noting "we need to listen to these people and not say they are stupid." In one session, he recounted a period in Belgium about 15 years ago when many people felt crime was not only rampant, but on the rise, despite statistics that showed quite the opposite. Some Belgian foundations responded by working with local authorities to develop new strategies for allaying public fears.

In other words, the foundation sector, though it may be feeling squeezed by populist sentiment in Europe, should be looking for ways to shift the politics.

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Caroline Fiennes, a UK-based consultant, has numerous telling anecdotes about the wonky impact studies she encounters in her work with charities. With one South African children's literacy program, she explained during a session on evidence-based philanthropy at the PFC conference, the charity backing it told donors about the pre- and post-reading levels to justify continued funding. But when she conducted a side-by-side study comparing participants and a control group, it became clear that children gained literacy skills at about the same rate, whether or not they were enrolled. "This," she said, "is why it's important to get decent evidence." The mantra of her practice comes from a sociologist named

Richard Peto: “Ask an important question and answer it reliably.”

“It seems to me that in the non-profit sector, we don’t do this,” she said.

Despite being based in the UK, Fiennes, interestingly, hasn’t traditionally done a lot of work with European foundations and charities, although she told me in an interview during the PFC conference that she’s recently seen more interest from EU-based funders.

Others have observed that slight uptick, including those who are skeptical about impact studies. Said Salole: “Foundations of a certain size are comparing notes on this, asking staff to think about evaluation and experimenting with different forms.” A decade ago, he added, “foundations would have said, ‘Why would I waste my money?’”

The answer, in part, has to do with the European philanthropy sector’s response to hostile political currents and the shrinking space question. Some, like Fiennes, argue that when funders take on the responsibility for making clear-eyed evaluations of the projects they underwrite, they’re creating not just a better story-line for donors but increased legitimacy.

But Lauzière added that some of the momentum for better measurement is coming from Europe’s fast-growing impact investing sector, where funders have adopted a “very pragmatic” approach that focuses on identifying a handful of key performance indicators considered acceptable to both investors and grantees.

Generally, Salole said that measuring impact is “a tough but important question,” yet it is also crucial for funders to avoid falling victim to “the cult of measurement” at the expense of relying on other sources of undocumented knowledge about the impact of charitable activity. De Borms, however, felt that foundations should be taking risks and failing occasionally, and warned that some charities have fallen into the “pretention” trap of attributing all improvements to themselves. As he put it, “Mandela didn’t have a matrix and he was quite successful.”

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Amidst all the upheaval and challenges from hostile populist governments, European foundations in recent years have embarked on some important and, perhaps, long overdue conversations. The broad goal: to bolster their social license to operate and push back against encroaching regulation. Salole noted that the lack of diversity among senior officials and trustees in the philanthropic sector is increasingly identified as a failing that must be addressed. Sailer added that young people coming into the philanthropic sector are pressing this point, as well as others, such as new uses of technology as a means of empowering the beneficiaries of charitable activity.

At the same time, there’s been a concerted effort within Europe’s philanthropic sector to establish more dialogue among traditionally reclusive foundations, as well as with funders in other regions of the world, including Canada. De Borms added that the establishment of Philanthropy House, in Brussels, has come to function as a meeting place and clearinghouse for Europe’s funders. “It’s physical proof that the sector is there.”

Some feel this outreach must also include those on the opposite end of the political spectrum. Pointing out that civil society “isn’t necessarily progressive,” De Borms observed that in the US, liberal and

conservative foundations operate in parallel, reflecting the reality that people “have different value systems.” Added Salole: “It behooves foundations not to be too one-sided.”

Finally, European foundations are actively working to assert a position on the shrinking space question, from taking high visibility common positions on hot-button issues, like Hungary’s threats against Central European University, to promoting key policy goals, such as reducing barriers to cross-border philanthropy. Among DAFNE’s other advocacy asks: policies to enable financial instruments that can act as a “catalyst” for co-granting with foundations, a European Year of Philanthropy, and an EU Fund for Democracy.

A detailed policy evaluation commissioned by DAFNE and EFC and published in early 2018 also points to the importance of aligning national laws with the EU’s international treaties as a means of blocking discriminatory or punitive taxation policies directed at specific funders. On this front, there seems to have been some movement within the European Commission, the report concludes. “It is interesting to note in this regard the EU Commission’s launch of infringement proceedings against Hungary in July 2017 as the first EU country to introduce restrictions on foreign funding to NGOs, making the infringement procedure mechanism one of the most effective tools available to the EU in protecting the philanthropic space.”

Quite apart from all the intra-EU machinations, Canada’s philanthropic sector has much to learn from what’s happening across the Atlantic. By way of example, Pearson said Canadian funders can draw inspiration from the ambitious goals of some large European foundations. “There’s something to be said of European foundations working on big social goals,” she said. “We can do more of that.”

Lauzière pointed to emerging initiatives arising from these newly forged connections, for example, a forthcoming gathering of foundation leaders from France, Belgium, and Quebec, planned for January. “This is only the first step.”

Jean Marc Chouinard, president of Quebec’s Lucie and Andre Chagnon Foundation, mentioned one other important lesson during a break at the PFC conference. After traveling around Europe this past summer meeting with leaders in the philanthropic and impact investing world, he realized that his counterparts have been forced, in recent years, to take stock of their role in societies that are experiencing a great deal of flux and uncertainty. “I took a couple of steps back and realized that we have to pay more attention to context.”