The role of the private sector in protecting civic space

With an essay by Bennett Freeman and Harriet Moynihan

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Foreword

Robust civic space is essential for good governance, the rule of law and for enabling citizens to influence the shape of their societies and the policies adopted by their governments. When civic space is protected, people can meet, organize and advocate, and exercise essential rights such as the freedom of expression, freedom of assembly and freedom of association. Social justice leaders and human rights defenders can speak truth to power, mobilize citizens, and press for transparency and accountability from governments. But civil society space is shrinking dramatically around the world. This is the case both for established democracies with active and diverse civic spaces – where civil society is increasingly finding it harder to operate – and for countries with developing national human rights institutions or limited freedoms – where an already difficult environment for civil society has undermined their ability to function effectively at all.[1]

These challenges have been exacerbated by the COVID-19 pandemic. The shared benefits of robust civic space require collective responsibility from a wide range of stakeholders. In 2020, the International Law Programme, Asia-Pacific Programme and the Latin America initiative in the US and Americas Programme at Chatham House focused on how new alliances with non-traditional actors can strengthen support for civic space. In our first phase we concentrated on the impact of the private sector. Business and civil society operate in and benefit from a 'shared space' – the rule of law, accountable governance and civic freedoms are essential to the realization of good governance, accountable institutions and stable business environments.[2] While there is an increase in corporate engagement on societal issues, including the establishment of initiatives such as the Business Network on Civic Freedoms and Human Rights Defenders, corporate action in support of civic space is currently limited, largely ad hoc and generally confined to a small cluster of engaged multinationals. Potential routes for effective coordination or collaboration with other actors, including civil society organizations, remain under-explored.

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1 United Nations (2020), *COVID-19 and Human Rights: We Are All in This Together,* New York: United Nations, p. 14, https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf.
2 Freeman, B. (2018), *Shared Space under Pressure: Business Support for Civic Freedoms and Human Rights Defenders,* Business & Human Rights Resource Centre and International Service for Human Rights, https://media.business-humanrights.org/media/documents/fdfe07e3d812cfcfed4235fbbf820a3d77599b13.pdf.

Through a series of roundtables and webinars with private-sector actors, civil society organizations and other key stakeholders, we considered the potential for the private sector to play a greater role in strengthening and protecting civic space. We explored the drivers of, and barriers to, corporate activism; identified good practice; and discussed practical strategies for the business community. This paper summarizes key insights that emerged during these discussions, including thoughts on the way forward. We hope these may further the understanding and willingness of companies to engage more actively on these issues and generate more productive engagement with the civil society sector in their mutual interest.

Ruma Mandal
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February 2021

01
Corporate action to support civic space in the 'Age of Impunity'

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The transition to illiberalism

The rapid decline in civil society space around the world, highlighted in the Foreword, is part of a bigger trend of geopolitical transition involving democratic recession and authoritarian resurgence.[3] In this 'Age of Impunity', there is a clear shift in the balance of power between liberal democracies formally committed to the rights and autonomy of individuals, and autocratic regimes that are not.[4] Almost one-third of the world's population now lives in countries going through a 'third wave of autocratization'.[5] The weakening of international institutions and democratic norms worldwide has resulted in fewer constraints on autocracies. The rise of nationalism, populism and illiberalism, including in countries with a long track record of upholding basic civic freedoms, is taking its toll on civil liberties.[6] The reports of CIVICUS Monitor, which tracks and rates the overall civic space of each country around the world, show not only the degree of backsliding in civic space in the last few years, but also the speed at which

3 Brechenmacher, S. and Carothers, T. (2019), *Defending Civic Space: Is the International Community Stuck?*, Research Paper, Carnegie Endowment for International Peace, 22 October 2019, https://carnegieendowment.org/2019/10/22/defending-civic-space-is-international-community-stuck-pub-80110.
4 Miliband, D. (2020), 'The Age of Impunity', speech at the World Economic Forum in Davos, January 2020. www.rescue.org/press-release/welcome-age-impunity-david-milibands-world-economic-forum-speech.
5 V-Dem Institute (2020), *Autocratization Surges – Resistance Grows: Democracy Report 2020*, www.v-dem.net/media/filer_public/de/39/de39af54-0bc5-4421-89ae-fb20dcc53dba/democracy_report.pdf.
6 Freedom House (2020), *Freedom in the World 2020: A Leaderless Struggle for Democracy*, 4 March 2020, https://freedomhouse.org/article/new-report-freedom-world-2020-finds-established-democracies-are-decline.

this decline has occurred. In 2019, 40 per cent of the world's population lived in repressed countries – in 2018, that figure was 19 per cent.[7]

In parallel, there is increasing pressure and expectation on corporations to tackle growing economic inequality, lack of diversity and inclusivity, and the erosion of democracy and the rule of law. The COVID-19 pandemic, in exacerbating inequality and the closing of civil society space, has added to the pressure on multinationals to address these issues. Companies are feeling directly the effects of increased autocratization and the weakening of civic space surrounding their business operations. Corruption, lack of transparency and suppression of public debate lead to a less stable and profitable environment for business. The rise in internet shutdowns around the world prevents business from operating effectively while suppressing civil society at the same time.[8] As a result, threats to civil society space are not just notional for companies – they are increasingly operational.

The boundaries between corporate responsibility and geopolitics are also blurring, with corporate responsibility increasingly politicized. Companies with supply chains in areas where civic freedoms are being suppressed are now at risk of breaching national sanctions regimes.[9] Digital civic freedoms – online freedom of expression, association and assembly – are increasingly part of a larger geopolitical debate about the future of the internet (open and global versus sovereign and closed). Whereas global governance was hitherto primarily the domain of states, now non-state actors, particularly the private sector, are increasingly involved (as with the prominent role of Microsoft at UN debates on international cyberspace norms). This engagement is perhaps unsurprising, given the vast turnover of some of the world's biggest companies, which are larger than the GDP of some states. Sixty-nine of the 100 richest entities in the world are businesses – and with this wealth comes power and leverage.

The boundaries between corporate responsibility and geopolitics are blurring, with corporate responsibility increasingly politicized.

The blurring boundaries of corporate responsibility – and the most dramatic, indeed historic example of such politicization – was exemplified by the unprecedented statements from business associations and company CEOs both immediately before and in the aftermath of the 2020 presidential election in the US. Those statements culminated in condemnation of the 6 January 2021 insurrection at the Capitol in Washington, and the subsequent severance by a number of companies of campaign contributions to Senate and House members who persisted in their refusal to accept the clear election result. The question

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7 CIVICUS Monitor (2019), *People Power Under Attack*, 4 December 2019, https://monitor.civicus.org/PeoplePowerUnderAttack2019.
8 Access Now (2020), *Targeted, Cut off, and Left in the Dark: The #KeepItOn Internet Shutdowns in 2019*, 25 February 2020, www.accessnow.org/2019-trends-in-internet-shutdowns.
9 See, for example, US State Department (2020), 'Risks and Considerations for Business with Supply Chain Exposure to Entities Engaged in Forced Labour and other Human Rights abuses in Xinjiang', Xinjiang Supply Chain Business Advisory, 1 July 2020, www.state.gov/xinjiang-supply-chain-business-advisory.

remains whether this business support for the rule of law, accountable governance and electoral integrity can go further in 2021 and translate into broader support for civil society space at a time when it is fast deteriorating around the world.[10]

Responsibilities and opportunities for business

In recent years, international standards have developed that elucidate the responsibility of companies to respect human rights – including the civic freedoms on which civil society is predicated – in their business operations. These standards are reflected in a number of international instruments, most prominently the UN Guiding Principles on Business and Human Rights 2011 (the 'UN Guiding Principles'),[11] as well as the ILO Declaration on Fundamental Rights and Principles at Work 1998 (the 'core labour standards') and the updated OECD Guidelines on Multinational Enterprises (2011). UN Sustainable Development Goal 16 also offers business an opportunity to support peace, justice and strong institutions, which are all fundamental both to human rights and civic space. The UN Guiding Principles establish the corporate responsibility to respect human rights, including the normative responsibility to actively seek to avoid causing or contributing to human rights harm through their business practices and address adverse human rights impacts with which they are involved.

Yet in situations where companies are not directly causing or contributing to harm itself, but are nevertheless operating in an environment in which civil society space is being curtailed by the host government, they also have the discretionary opportunity to be proactive in order to support and uphold civic freedoms. Indeed, there is a strong business case for companies taking action.[12] Strong trade unions and civil society organizations help companies to secure the social licence to operate locally. They also play an important role in alerting companies to risks that may disrupt their business operations and damage their brand. Limits on civic freedoms may also produce negative economic outcomes.[13] Beyond the normative responsibility and the business case, companies also have a moral choice to act: not only 'to do no harm' anywhere, but also to do good where possible.

As the UN Guiding Principles approach their 10-year anniversary, the framework for businesses to respect human rights and civic freedoms is becoming increasingly entrenched, including through the growth of mandatory human rights due diligence laws as well as corporate human rights policies and human rights impact assessments. But while this overall framework sets standards and expectations for companies, it does not tell companies how to address specific issues and

10 Freeman, B. and Moynihan, H. (2020), 'Corporate Big Beasts Stick Their Necks out for Democracy', Chatham House Expert Comment, 16 December 2020, www.chathamhouse.org/2020/12/corporate-big-beasts-stick-their-necks-out-democracy.
11 United Nations Office of the High Commissioner (2011), *Guiding Principles on Business and Human Rights*, www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.
12 Freeman, B. (2018), 'Shared Space under Pressure: Business Support for Civic Freedoms and Human Rights Defenders', Guidance for Companies, August 2018: https://media.business-humanrights.org/media/documents/fdfe07e3d812cfcfed4235fbbf820a3d77599b13.pdf.
13 Lee Hogg, A. and Hodess, R. (2018), 'The Business Case for Protecting Civic Rights', October 2018: https://bteam.org/our-thinking/reports/the-business-case-for-protecting-civic-rights.

situations. The reality is that corporate activism in this area – especially when it concerns concrete action that goes beyond public statements – is often complex and difficult.

Difficult choices

Companies may face dilemmas about how to balance the expectations of diverse and sometimes conflicting sets of stakeholders. These include local communities and rights holders (including human rights defenders) – often supported by national and international human rights NGOs – whose civic freedoms or human rights may be threatened. Companies will also be mindful of the increasingly numerous and powerful responsible investors who consider environmental, social and governance (ESG) issues as material to profitable and sustainable investment. Employee activists are becoming more assertive and effective in demanding that companies take stands on social, environmental and political issues in ways that may challenge management, define brand values and win or lose customers.

At the same time, companies also must consider the reactions of the home and host governments of countries where they are legally incorporated or listed on stock exchanges, maintain direct operations and/or suppliers, benefit from significant commercial contracts, and abide by regulatory frameworks. Relations with governments will be a particular concern and challenge for companies, as taking a stand on civic space-related issues or situations may directly or indirectly criticize or counter government policies and actions. In authoritarian regimes, it may bring companies into conflict with the government in question. For example, over the last year, many global apparel brands have taken steps to identify and sever relationships with suppliers using Uighur forced labour in Xinjiang and elsewhere in China, but not all have publicly disclosed these steps. Among major brands, only Marks & Spencer has thus far publicly committed to the full range of steps set forth in the Call to Action issued by the End Uyghur Forced Labour campaign.[14] This hesitation reflects the weight that access to China's market carries with companies and therefore the need to speak and act with significant caution.

While companies are understandably averse to taking critical public stands that may risk damage to relationships with host country governments with commercial and legal consequences, the risks of inaction deserve equal attention. In many cases, companies may conclude that the risks – and the likely costs – of inaction may be more difficult to anticipate, mitigate and manage than the risks of action.[15] These risks include lasting damage to corporate reputation and the social licence to operate. Royal Dutch Shell's failure to intercede quickly or forcefully enough to avert the Nigerian government's executions in 1995 of Ken Saro-Wiwa and his fellow Ogoni Nine activists protesting against both the company and the government remains the most vivid example of a major

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14 BBC News (2021), 'M&S signs call to action over Uighur forced labour', 6 January 2021, www.bbc.co.uk/news/business-55555270.
15 Freeman (2018), 'Shared Space under Pressure: Business Support for Civic Freedoms and Human Rights Defenders'.

company not fully assessing the risks of action versus inaction.[16] In that case, the company's failure to take responsibility and action damaged its reputation globally and lost Shell its social licence (and physical ability) to operate in the Ogoniland region of the Niger Delta ever since. These dilemmas remain difficult in situations where a company has a normative responsibility to act but has not realized or accepted that to be the case; they are especially challenging when there is a discretionary opportunity to act without a clear-cut responsibility to do so.

While companies are understandably averse to taking critical public stands that may risk damage to relationships with host country governments with commercial and legal consequences, the risks of inaction deserve equal attention.

In practice, companies will need to be pragmatic about how and when to act or speak up in response to a specific civic space issue or situation.[17] Companies sometimes assume that statements or actions must be direct and public. Many are beginning to move beyond such assumptions and instead are recognizing that a spectrum of statements and actions may be undertaken privately or publicly, individually or collectively, directly or indirectly as the issue evolves. Those determinations will need to be based on an assessment of the severity and urgency of the issue or situation, as well as the leverage that the company can exert and the most positive impact it can have through different forms of engagement or intervention. They also need to take into account possible risks to affected rights holders and communities, informed by direct consultations that are enabled by long-term relationships with them.

A recent example demonstrates the spectrum of actions that companies may take when it comes to supporting civil society space. In the wake of a shooting of striking garment workers in 2014 and increasing repression since, global apparel brands (including adidas and Nike) first privately and then publicly pressed the Cambodian government to respect freedom of association in 2018–19. They also urged the government to drop politically motivated criminal charges against the prominent labour rights activist Tola Moeun. The brands' work was coordinated and amplified by two multi-stakeholder initiatives focused on labour rights largely in that sector, the Fair Labor Association (FLA) and the Ethical Trading Initiative (ETI), which made it clear to the Cambodian government that their sourcing decisions would be influenced by progress on the issue. In another significant step, the FLA, ETI and brands supported the EU's review of trade preferences for Cambodian garment exports in light of the suppression

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16 Freeman, B. (2020), 'A quarter-century later: The unfinished business of Ken Saro Wiwa and the Ogoni Nine', Business & Human Rights Resource Centre, 10 November 2020, www.business-humanrights.org/en/blog/a-quarter-century-later-the-unfinished-business-of-ken-saro-wiwa-and-the-ogoni-nine.
17 Freeman, B., Lazala, M. and Ineichen, M. (2019), 'Why businesses are nothing without strong human rights', World Economic Forum, www.weforum.org/agenda/2019/01/5-ways-businesses-can-back-up-human-rights-defenders.

of labour rights, which resulted in the loss of duty-free access in August 2020. Their engagement and advocacy demonstrate leverage and impact: brands working together with other stakeholders, supported by many of their home country governments represented by the EU, with trade preferences removed as a prod to reform. While it remains to be seen whether the Cambodian government eases its repression of freedom of association and worker rights – and whether major apparel brands will shift sourcing to other countries – a stand has been taken that may yet produce positive results.

With civic space under pressure around the world, business has a responsibility and an opportunity to uphold and defend the civic freedoms upon which an open and healthy civil society, as well as sustainable and profitable business environments, are based. But greater understanding is needed of the roles that companies can play individually or collectively and in conjunction with civil society organizations, industry bodies and multi-stakeholder initiatives. Further analysis is especially needed of the dilemmas they face as they balance stakeholder expectations and the reactions of governments that they may be compelled to challenge. The insights in this Chatham House synthesis paper help to narrow these gaps.

02
Roundtable insights

1. Drivers of engagement

Normative responsibility

The UN Guiding Principles on Business and Human Rights provide that, 'Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.'[18] While the UN Guiding Principles are not legally binding on companies – unlike states, companies are not bound by obligations under international human rights law – there is nevertheless a clear normative responsibility on companies to avoid causing, contributing, or being linked to human rights harm (including to human rights defenders) through their business practices. As one participant noted, this normative framework for business concerns not only economic and social rights issues such as fair pay, safe working conditions and supply chain issues, which are traditional 'business and human rights' issues, but also civil and political rights – including freedoms of expression, assembly and association – that are the bedrock of a healthy civil society space.

Under the UN Guiding Principles, states have a duty to protect individuals within their jurisdiction from human rights harm. One of the ways in which states may exercise this protective function is through legislation or regulation: for example, enacting laws that prohibit companies from participation in bribery or modern slavery or mandating human rights due diligence. Such legislation, which is on the rise, establishes some of the normative responsibility on a business as a formal legal requirement.[19]

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18 UN OHCHR (2011), *Guiding Principles on Business and Human Rights,* New York and Geneva: United Nations Office of the United Nations High Commissioner for Human Rights, www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf.
19 For example, the UK's Modern Slavery Act (2015) and Australia's Modern Slavery Act (2018) require corporate reporting to increase transparency around modern slavery and human trafficking in the operations and supply chains of large companies. France recently enacted a Law on the Corporate Duty of Vigilance, mandating corporate human rights due diligence on companies of a certain size; Germany and the EU are looking to do the same: see Voland, T. (2020), 'Germany's Due Diligence Act', Clifford Chance *Business and Human Rights* blog, 31 July 2020, www.cliffordchance.com/insights/resources/blogs/business-and-human-rights-insights/germanys-due-dligence-act.html.

But as one participant observed, with the growth of illiberalism and autocratization, domestic laws increasingly do not conform to international human rights standards. The example was given of media companies operating in illiberal regimes that are ordered to comply with news blackouts or internet shutdowns. As the introduction to this paper notes, companies face dilemmas about how to respect international human rights law at the same time as complying with local law in order to be able to operate in the country concerned.

The business case

While the normative responsibility on companies takes primacy, it was observed that there is also a strong business case for companies to support the civil society space agenda. Civil society organizations and human rights defenders play critical roles in protecting and expanding civic freedoms, which benefit all sectors of society. Conversely, the restriction of these freedoms can lead to political volatility and instability for businesses. Thus, there are clear incentives for companies to uphold civil society space and to collaborate with civil society organizations in doing so. In order to prosper, business depends on an open environment in which laws are respected, employees have the right to speak up, and business can operate without fear of government interference. As one participant noted, 'we are interconnected, and everybody now needs to play a role to protect civic space, including the private sector'.

Another participant argued that companies that take the lead on human rights and civil society space issues benefit from both short- and long-term gains. Short-term benefits include management of operational and reputational risk. Civil society actors play an important role in alerting companies to risks that could disrupt their business operations and damage a company's brand, so it is in the interests of business to work with civil society. It was noted that consumer-based companies are more visible and thus more exposed to criticism if they are perceived to act in a way contrary to human rights and civic space. Being attuned to the reputational risks, they are more likely to be responsive to civil society space issues. For example, adidas, a clothing company, was one of the first businesses to publish a specific policy on human rights defenders.[20] The policy defines how the company will manage expectations from civil society, what interventions can be considered and how to align with internal stakeholders.

As one participant argued, long-term gains for companies of supporting civic space include greater legal certainty, harmonization of practices and reduction of corruption, all of which enable companies to operate freely. Participants highlighted studies showing that when businesses engage with social issues, they benefit themselves as well as the local community.[21]

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20 Zbona, A. (2017), 'In-Depth Interview with William Anderson of Adidas: "It Is Important for Brands to Have Clarity over When and How They Will Act with Respect to HRDs"', Business & Human Rights Resource Centre Blog, 26 February 2017, www.business-humanrights.org/en/blog/in-depth-interview-with-william-anderson-of-adidas-it-is-important-for-brands-to-have-clarity-over-when-and-how-they-will-act-with-respect-to-hrds.
21 See, for example, Mayer, C. P. (2018), *Prosperity: Better Business Makes the Greater Good*, Oxford: Oxford University Press, pp. 122–123.

A moral choice

Beyond the normative framework and business case, it was argued by one participant that a company and the individuals working for them also have a moral choice to act.[22] Some companies may choose to act responsibly because as well as the business case, they recognize the importance of acting responsibly as good citizens in society. For example, in 2020, Microsoft offered free online protection to human rights organizations such as Amnesty International and Human Rights Watch that were under a growing threat of cyberattacks.[23] While companies do not act purely for moral purposes, ethical as well as commercial factors are taken into consideration and may make a compelling case for business to get involved when there is not a clear responsibility to do so.

Businesses do not have to try to solve all the world's problems. Rather, they could focus on situations where there is an intersection between a civil society issue and the business operation in question.

Companies can be nervous about putting their head above the parapet for fear of 'moralizing when they are not perfect themselves', as one corporate participant observed. Some companies do not feel they have the right or standing to talk to governments about human rights issues. Companies also want to be authentic when speaking on these issues in order to ensure that they can deliver credibly and tangibly. In response, another participant argued that the call for businesses, shareholders and investors to support civic space is not because they are perfect; it is because their capacity, resources and expertise can help in finding solutions to enhance the protection of civic space.[24] Businesses do not have to try to solve all the world's problems. Rather, they could focus on situations where there is an intersection between a civil society issue and the business operation in question.

For example, some companies that have developed progressive corporate policies on LGBT+ issues have also been proactive in supporting civil society on those issues around the world. In 2015, fourteen global companies launched the first business-led coalition to support LGBT+ inclusion, including Brunswick, Royal Bank of Scotland, American Express, Linklaters, Virgin and McKinsey.[25] In terms of women's rights, another example is Unilever, which partnered with Oxfam to support the rights of female workers to raise their voice, by highlighting concerns about unpaid care and domestic work.[26]

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22 Freeman (2018), *Shared Space under Pressure: Business Support for Civic Freedoms and Human Rights Defenders*.
23 Burt, T. (2020), 'Protecting Healthcare and Human Rights Organizations from Cyberattacks', *Microsoft On the Issues* blog, 14 April 2020, https://blogs.microsoft.com/on-the-issues/2020/04/14/accountguard-cyberattacks-healthcare-covid-19.
24 One participant cited Miller, J. and Parker, L. (2013), *Everybody's Business: The Unlikely Story of How Big Business Can Fix the World*, London: Biteback Publishing, Chapters 10 and 11.
25 Open for Business (2020), 'Business Action for LGBT+ Inclusive Societies', https://open-for-business.org.
26 Unilever and Oxfam (2019), *Business Briefing on Unpaid Care and Domestic Work: Why Unpaid Care by Women and Girls Matters to Business, and How Companies Can Address It,* p. 4, doi: 10.21201/2019.4405.

2. Challenges for business in engaging on civic space issues

Lack of understanding about the role of companies in society

Significant barriers to companies taking action on civic space issues are twofold: firstly, a poor understanding of the implications for civic space of their actions; and secondly, an inadequate awareness of the needs of civil society. For many companies, this topic is quite new and difficult, and they lack confidence about whether and how to act. Civil society organizations working with business on civic space issues noted that companies often argue that they can only comment on issues directly related to their supply chains or operations. They are often unaware of the power, influence and leverage potential of business in relation to the preservation and defence of a healthy and open civil society.

One participant suggested that to address this, a multi-stakeholder effort needs to take place, exploring avenues for securing private sector buy-in through organizations including the OECD, EU, international financial institutions, rating agencies and investors. Academia and think-tanks also need to engage and provide in-depth research that would assist greater understanding in the corporate sector of the linkages between them and civil society space.

For their part, civil society organizations need to continue to look for opportunities to engage constructively with the private sector on these issues. A corporate participant acknowledged that it takes time for businesses to understand the damage they can suffer when they do not listen to civil society concerns. The participant also argued that the most effective way for companies to listen is to tie advocacy to a tangible impact, which for companies usually means at least the ability to continue to operate in a particular country or to maintain certain business relationships. The business case for corporate engagement is thus particularly relevant, and enlightened companies can serve as an impetus for change in this area.

Lack of trust from civil society organizations

It was clear from the discussions that there is a degree of scepticism within civil society organizations about engaging with business. Reference was made to 'feedback fatigue', whereby the same voices from civil society organizations are called on to discuss the issues, but the discussions are not matched with corporate action that meaningfully changes business practices in response. Building a relationship with civil society organizations can also be challenging for business: one corporate participant raised the challenge of identifying the right civil society organizations to work with, citing the problem of pseudo-NGOs that claim to be independent but in fact are close to the government or otherwise lack legitimacy with local communities.

Another challenge highlighted was the risk of companies collaborating with governments without regard to the detrimental effect on civil society space. Public-private partnerships are increasingly popular, and often touted as 'multi-stakeholder' ways of working, but they can be a veil for collusion,

especially in illiberal regimes. Another participant mentioned the risk of business becoming actively involved in fashioning a civil society sector that advances its own interests ('co-option'). Co-option could include companies poaching valuable staff and human resources away from civil society organizations because business can offer higher salaries. A participant from a civil society organization suggested that to avoid such co-option, civil society organizations should work with actors other than just the private sector, including the media and other human rights groups who have direct access to marginalized communities, and (where possible) maintain diverse sources of funding in illiberal regimes.

Public-private partnerships are increasingly popular, and often touted as 'multi-stakeholder' ways of working, but they can be a veil for collusion, especially in illiberal regimes.

Discussion focused on practical ways forward for building trust between companies and civil society organizations in order to further collaboration between them on civic space issues. One participant noted that Facebook has sought to do that by working with academics and the broader research community, creating dedicated spaces to talk to them, including in the Global South. Some companies have sought to build local relationships with civil society organizations on the ground. Others have stepped in to provide financial backing when government sources have restricted the access of civil society organizations to foreign funding, for example through the enactment of new laws. One fruitful area of cooperation is civil society organizations helping companies to create policies to protect human rights defenders.

One speaker mentioned the example of Ericsson, a telecommunications company, which has been providing technical expertise and infrastructure to local civil society organizations; publicizing how the technology can be misused; and exploring how such misuse can be prevented. The company works in partnership with local organizations by sharing its technical knowledge with those on the ground, while the civil society organization provides knowledge about the local context to the company. Ericsson has also established an external oversight board to comment on its methodologies and conducted stakeholder mapping to try to close the gaps in its outreach. Ericsson's work with local human rights defenders has enabled it to build up stronger relationships, which can provide a form of early warning system for local grievances.

Corporate culture

Several participants observed that for companies to take action to support and protect civic space, a change in corporate culture is required. As one corporate participant put it, 'How do you shift the corporate emphasis from risks to values?' In reply, it was observed that it is fundamental for companies to develop a new governance framework. This requires a shift 'from thought leadership, and ad hoc actions, to principled action'. If companies can create an internal dynamic of an

inclusive, open working environment, they will be in a better position to translate these values into a wider context.

The growing trend for companies to include explicit reference to support for civic space in their governance policies was noted. One participant highlighted BP's new Business and Human Rights Policy, which states that BP, 'will not tolerate or contribute to attacks, or physical or legal threats, against those safely and lawfully exercising their human right to freedom of expression, peaceful protest or assembly, including where they are acting as human rights defenders, or against workers seeking to exercise their right to freedom of association'.[27] While such statements are a step in the right direction, several participants emphasized that for civil society space to thrive, they need to be matched with practical steps. This includes business using their standing to advocate for change on three levels: to protect their employees and clients; to defend against abusive government action and regulation; and to promote effective regulation to strengthen human rights.

It was also noted that companies need to be held accountable for the statements and policies that they publish. To increase accountability and help reduce 'feedback fatigue', it was suggested that companies should show indicators of progress and be responsible to stakeholders to demonstrate how inputs are improving their business practices. One participant cited the EU Code of Conduct on Hate Speech, and the EU Code of Conduct on Disinformation, both of which set out voluntary measures agreed by the tech sector in order to tackle hate speech and disinformation respectively. The measures under the codes are subject to annual assessment by the European Commission, whose reports are made public.[28]

3. Catalysts for change

A number of participants noted that in order to mobilize normative responsibility under the UN Guiding Principles – and move from traditional corporate social responsibility activities to practices that acknowledge and capitalize on their potential to contribute to the defence of civil society spaces – companies need to adopt a 'paradigm shift' in their attitude and behaviour. Participants discussed the various catalysts that may help companies to effect this change.

Internal catalysts

Leadership
CEOs can play a vital role in driving companies towards a more proactive stance on civil society space issues. It was noted that many business leaders and CEOs have been vocal over the last few years on a range of human rights issues and have used their influence to express support for a more inclusive civic space. One participant cited the leadership of Paul Polman, former CEO of Unilever,

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27 BP (2020), *Business and Human Rights Policy,* para 3.7, www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/sustainability/group-reports/bp-human-rights-policy.pdf.
28 See, for example, European Commission (2020), *Assessment of the Code of Practice on Disinformation – Achievements and Areas for Further Improvement,* Brussels: European Commission, https://ec.europa.eu/digital-single-market/en/news/assessment-code-practice-disinformation-achievements-and-areas-further-improvement.

who implemented an environmentally sustainable and socially responsible culture within the company, and took specific public advocacy stands on issues such as the plight of the Rohingya in Myanmar. While many shareholders were initially sceptical of his approach, Unilever's stock prices more than doubled during his leadership. Polman proved that a responsible business model can make the brand stronger and improve a company's reputation, which can reflect positively in the share price.

Reference was also made to the Business Roundtable, an association of CEOs from US companies. In 2019, the Business Roundtable issued its Statement on the Purpose of a Corporation, signed by 181 CEOs, declaring that companies should work for the benefit of all stakeholders; moving away from its previous emphasis on the primacy of shareholders.[29] Since 'all stakeholders' includes customers, employees, suppliers, communities where companies operate, and shareholders, this signalled a significant shift.

Investors and shareholders

Investors and shareholders can be another important catalyst for encouraging companies to act, as a healthy civic space encourages a sustainable and profitable investment environment. Goal 16 of the Sustainable Development Goals (SDGs), which promotes 'peaceful and inclusive societies for sustainable development', provides a natural hook for companies to act in support of civil society space. Increasingly, investors are pushing companies to focus on the SDGs in order to be both profitable and beneficial to society at large. It was noted that many companies have factored support for the SDGs into their governance, policies and investment strategies. Samsung, for example, has developed an app encouraging people to be more aware of each SDG, and to donate towards their realization.[30] At the same time, a civil society participant cautioned that companies should not just cite the SDGs but actually 'walk the talk' by turning their rhetoric into action.[31] One participant cited positive examples from Japan, where there is widespread corporate commitment to the SDGs, including in the form of public-private activities and recognition by the state of companies that meet SDG goals.

Beyond the SDGs, one participant mentioned the example of Aviva Investors, the holder of shares worth nearly £800 million in Standard Bank and HSBC, which expressed unease at the decision of these two banks to support the new National Security Law in Hong Kong. The law provides for new offences on secession, subversion, terrorism and 'collusion with foreign or external forces', which are already having a chilling effect on civil society space in Hong Kong. In expressing its disquiet in June 2020, Aviva stated that it expects 'both companies to confirm that they will also speak out publicly if there are future abuses of democratic freedoms connected to this law'.[32]

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29 Business Roundtable (2019), 'Statement on the Purpose of a Corporation', https://s3.amazonaws.com/brt.org/BRT-StatementonthePurposeofaCorporationOctober2020.pdf.
30 Samsung (2020), 'Changing the World Together by 2030', www.samsung.com/global/galaxy/apps/samsung-global-goals.
31 See, for example, Mhlanga, R., Gneiting, U. and Agarwal, N. (2018), *Walking the Talk: Assessing Companies' Progress from SDG Rhetoric to Action,* Oxfam, doi:10.21201/2018.3378.
32 Bray, C. (2020), 'Aviva Investors Rebukes Hsbc, Standard Chartered over Decision to Support Hong Kong National Security Law', *South China Morning Post*, 10 June 2020, www.scmp.com/business/banking-finance/article/3088392/aviva-investors-rebukes-hsbc-standard-chartered-over.

Employees

Increasingly, employees are pressing companies to change their attitude to issues related to civic space, through protests and walk-outs. One participant noted the example of Empresas Polar, a group of manufacturing companies operating in Venezuela that has provided a set of social benefits for employees, including a fund for funeral costs.[33] These actions enhanced productivity, as well as developing a social trust among the employees. When the Venezuelan government tried to nationalize this company, its workers were against the initiative, supporting the company instead of the government. While this example required a significant investment by the company concerned on social benefits for workers, this policy also served 'as a bulwark against governmental encroachment on private property'.

Increasingly, employees are pressing companies to change their attitude to issues related to civic space, through protests and walk-outs.

In 2018, Google employees protested against the company's contract to provide artificial intelligence to the US Department of Defense. In the same year, a group of 14 human rights organizations and more than 1,400 Google employees called on Google to refrain from launching a censored search engine in China.[34] One participant noted that this action was a factor in Google's decision not to proceed.

External catalysts

Industry bodies and multi-stakeholder initiatives

The increase in business and human rights activities by corporates, including in the context of supporting civic space, has been partly galvanized by industry bodies such as the International Council on Mining and Metals (ICMM), and multi-stakeholder initiatives, including the ETI (for the apparel industry) and the Global Network Initiative (for the technology industry). As well as developing policies and procedures that enable the companies concerned to identify and mitigate the risks of activities harmful to human rights, such bodies can also assist companies to change their corporate culture so that it supports, rather than takes for granted, the value and benefits of an open society.

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33 Empresas Polar (2020), 'Compromiso Social', https://empresaspolar.com/compromiso-social.
34 Wong, J. C. (2018), 'Google Employees Sign Letter against Censored Search Engine for China', *The Guardian*, 27 November 2018, www.theguardian.com/technology/2018/nov/27/google-employees-letter-censored-search-engine-china-project-dragonfly.

One participant highlighted the example of the ICMM – made up of 27 companies, including multinationals such as BHP and Anglo American – which, in December 2018, published a statement acknowledging that:

> an active and open civil society and strong rule of law are essential to the enabling environment for responsible business. We [members of ICMM] support the existence of an open civic space and want everyone – supporters and critics – to be able to express opinions safely and without fear of reprisal or persecution.[35]

The ETI, which works with its member companies to address allegations of human rights violations within their supply chains, has underlined the importance of freedom of association and freedom of expression in the fight against modern slavery and child labour.[36]

One participant from an industry body noted the efforts being made but also the complexities involved:

> I will continue to wrestle with the unstable collection of strategies in hand. I will continue to pick our fights with care, continue to weave more sophistication into advocacy strategies, and continue to look for the lines between improvement in business practice and the need for industry and societal changes.

Social movements

In the last decade, a number of social movements have increased the pressure on businesses to take a stance on social issues. In 2020, many of the leading technology, banking, apparel and entertainment companies issued messages of support for those demonstrating against police brutality faced by black people. Several participants observed that tech companies in particular have played a crucial role in protecting freedom of expression and assembly, and have enabled social movements, such as Black Lives Matter, to reach a broad audience and challenge power.

One speaker argued that the Black Lives Matter protests in the US and globally represent a sea change in terms of the roles and responsibilities of business. They have led to greater consciousness about racial discrimination and racial injustice, and have encouraged some companies, such as IBM[37] and Google,[38] to make statements committing to action on this issue. But while acknowledging shortcomings and issuing statements are important starting points, one participant argued that:

> …the challenge for business is to move beyond statements, symbols and virtue signalling to concrete, tangible actions that will fully embrace the notion of shared space between business and civil society space.

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35 Black, N. (2018), 'Putting Respect for Human Rights at the Heart of Mining', ICMM, 10 December 2018, www.icmm.com/en-gb/news/2018/putting-respect-for-human-rights-at-the-heart-of-mining.
36 ETI (2017), 'Human Rights Defenders, Civic Space and the Links to Modern Slavery', Ethical Trading Initiative blog, 29 September 2017, www.ethicaltrade.org/blog/human-rights-defenders-civic-space-and-links-to-modern-slavery.
37 Krishna, A. (2020), 'IBM Ceo's Letter to Congress on Racial Justice Reform', IBM *THINKPolicy* blog, 8 June 2020, www.ibm.com/blogs/policy/facial-recognition-sunset-racial-justice-reforms.
38 See, for example, Pichai, S. (2020), 'Our Commitments to Racial Equity', Google *The Keyword* blog, 17 June 2020, https://blog.google/inside-google/company-announcements/commitments-racial-equity.

Aligning with the 'Me Too' movement, or Black Lives Matter, through substantial pledges or earnest statements might seem an easy win for companies. But it was noted that there are pitfalls for companies doing so in an ad hoc or cursory manner without meaningful engagement. One is the criticism of hypocrisy, with accusations levelled that the companies in question are 'virtue signalling' and engaging simply in order to raise their profile.[39]

One participant suggested the implementation of initiatives to address deepening economic inequality, and support for the freedom of association by workers so that their voices can be heard.

There was a discussion about what concrete action in this area might look like. One participant suggested the implementation of initiatives to address deepening economic inequality, and support for the freedom of association by workers so that their voices can be heard. Another participant highlighted the action of Amazon, IBM and Microsoft in disengaging from the provision of AI facial recognition services for law enforcement agencies.[40] Reference was also made to initiatives that go beyond simply the products that these companies offer, which can provide a more inclusive way of supporting civic space. Mozilla, for instance, recently announced funding for black artists who use art to spotlight how the use of AI can reinforce – or disrupt – racial justice.[41] But one participant remarked that the efforts of multinational companies are mainly focused on concerns from individuals and movements in North America and Europe, while in the Global South people still lack access to global platforms and struggle to raise visibility for their social movements.

The COVID-19 pandemic

As one participant observed, the pandemic has 'shone a spotlight on pre-existent fissures in societies', highlighting challenges that civil society has been facing for years. Civic space has shrunk further as lockdown measures have restricted the right to assembly and association, often accompanied by crackdowns on civil society organizations.

Participants from different regions described the tightening of restrictions on civil society space in their part of the world. In Latin America, a number of countries have seen checks and balances weakened while state surveillance has increased. In El Salvador, President Nayib Bukele has used the military to suppress gatherings, limiting the right to protest. In Bolivia, the de facto regime has taken advantage of the pandemic by arresting opponents, imposing decrees criminalizing dissent and curtailing press freedoms. In Chile, the referendum on whether to create

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39 Duarte, F. (2020), 'Black Lives Matter: Do Companies Really Support the Cause?', BBC Worklife, 13 June 2020, www.bbc.com/worklife/article/20200612-black-lives-matter-do-companies-really-support-the-cause.
40 See, for example, Smith, B. (2018), 'Facial Recognition: It's Time for Action', *Microsoft On the Issues* blog, 6 December 2018, https://blogs.microsoft.com/on-the-issues/2018/12/06/facial-recognition-its-time-for-action.
41 Mozilla (2020), 'Supporting Black Artists Who Are Examining AI', https://foundation.mozilla.org/en/blog/supporting-black-artists-who-are-examining-ai.

a constitution was delayed. In Africa, rights have been trampled on across the region, and civic actors are struggling for resources as they lose funds or are shut down by governments. Illiberal and authoritarian governments in Asia have enacted emergency measures restricting movement, undermining freedom of assembly and association.[42]

Several participants noted that while there have been numerous examples of companies stepping up to provide financial and material help during lockdowns, for example donating supplies of meals or masks, business support for civic freedoms amid crackdowns has generally been lacking. A question was raised as to why businesses have not done much in response, despite some being progressive. It was observed that some companies have formed close relationships with governments, so they do not want to 'rock the boat'. In repressive contexts, in particular, businesses have a disincentive to confront governments because they do not want to attract undue attention. It was noted that when businesses choose to abide by states' repressive rules, it becomes difficult for civil society groups to view them as trusted partners.

While the pandemic is causing devastating loss around the world, it has also accentuated the perception that we live in a shared space, and that 'we are all in this together'. COVID-19 is, to some extent, a leveller, as it affects all sections of society. The UN report *COVID-19 and Human Rights* underlines the importance of civil society and businesses acting together to ease the impact of the pandemic and enhance human rights protection.[43] As one participant noted:

> The pandemic has been a catalyst for fundamental changes in how businesses relate to civic space, by turbocharging the debate around not only corporate responsibility but also corporate purpose, underlining that companies have a responsibility not only to shareholders but also to stakeholders.

4. Spotlight on the tech sector

At two of our discussions, the focus turned specifically to the role that the tech sector can play.[44] Online platforms, internet providers and software designers have provided important channels for individuals to exercise their rights to freedom of expression, freedom of assembly and freedom of association. A participant from civil society emphasized that technology has also been hugely helpful to civil society organizations in enabling them to organize, advocate and disseminate their messages at scale online. Tech sector actors (whether developers, designers, funders, strategists, content moderators or investors) thus form a highly influential group in the protection and support of civic space.

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42 Wen, J. (2020), 'COVID-19 Hiding Human Rights Violations In Southeast Asia', *Human Rights Pulse*, 21 August 2020, www.humanrightspulse.com/mastercontentblog/covid-19-hiding-human-rights-violations-in-southeast-asia.
43 United Nations (2020), *COVID-19 and Human Rights*.
44 Chatham House (2020), 'Tech Sector Engagement with Civic Space: What's the Business Case?', Webinar, 15 October 2020, www.chathamhouse.org/events/all/research-event/webinar-tech-sector-engagement-civic-space-whats-business-case.

Yet the tech sector also presents unique threats to civic space in the form of privacy violations and the enabling of state surveillance; microtargeting using personal data, amplification of hate speech and extremism; as well as facilitating the spread of misinformation and disinformation. Social media platforms have enabled an online environment that is increasingly polarized, that has eroded the public's trust in democracy and that has contributed to the chronic decline of traditional and independent media, which are vital for a healthy and robust civil society. What can be done to address these concerns?

In the context of mature democracies, it was argued by one participant that there is an important role for regulation of dominant tech companies, in order to uphold civic integrity, make companies think beyond the attention economy, and increase the transparency and accountability of their operations. The EU's draft Digital Services Act and draft European Democracy Action Plan propose a variety of measures to tackle these issues, as do the UK's proposals for an Online Safety Bill, and existing legislation in Germany and France.[45] The EU has consulted widely with the tech sector and civil society on its proposals, which has helped to build trust and meaningful engagement between the tech sector and civil society. One participant noted that some of the dominant platforms are starting to take their own steps to support civic space. In September 2020, Twitter updated its Civic Integrity Policy with a view to further protecting civic conversation.[46] In June 2020, Facebook strengthened its policies on hate speech, including a ban on hateful content that targets immigrants, after Unilever announced that it was pulling all adverts from Facebook, Instagram and Twitter in the US due to the company's lack of action on divisiveness and hate speech.[47]

At the same time, another participant observed that the Ranking Digital Rights Index, which promotes online freedom of expression and privacy by creating global standards and incentives for companies to respect users' rights, indicates what a long way tech companies have to go in addressing harms to rights online.[48] While large multinational tech companies are starting to make some progress, early or mid-stage companies, engaging in, for example, surveillance, are much harder to bring into the conversation, especially if they are privately traded. Progress by all actors is impeded by a lack of transparency about how the technology works, and by power and information asymmetry, making the establishment of a trusting relationship with civil society on these issues much more challenging.

One participant argued that power and information asymmetry can be addressed by tech platforms becoming more open and interoperable. Some best practice examples were discussed of tech companies that are open source and focused on society's best interests as opposed to profits from advertising and the attention economy. Mozilla was highlighted as a not-for-profit company that supports open-source apps, a web literacy curriculum and diversity in tech. Ushahidi,

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45 For details, see De Streel, A., Defreyn, E., Jacquemin, H., Ledger, M. and Michel, A. (2020), *Online Platforms' Moderation of Illegal Content Online* [Study Requested by the IMCO Committee], European Parliament, www.europarl.europa.eu/RegData/etudes/STUD/2020/652718/IPOL_STU(2020)652718_EN.pdf.
46 Twitter Safety (2020), 'Expanding Our Policies to Further Protect the Civic Conversation', https://blog.twitter.com/en_us/topics/company/2020/civic-integrity-policy-update.html.
47 Hern, A. (2020), 'How Hate Speech Campaigners Found Facebook's Weak Spot', *The Guardian*, 29 June 2020, www.theguardian.com/technology/2020/jun/29/how-hate-speech-campaigners-found-facebooks-weak-spot.
48 Ranking Digital Rights (2019), '2019 Ranking Digital Rights: Corporate Accountability Index'.

a social enterprise based in Kenya, provides open-source software and services to numerous sectors and civil society in order to help improve the flow of information from citizens on the ground, including through crowdsourcing.[49]

Increasingly, democracies are becoming illiberal and semi-autocratic. Mention was made of government encroachment on civic space in Brazil, El Salvador, Ghana, Hungary, India, Nigeria, Sri Lanka and the US. Online civic space is increasingly important for civil society actors operating in these environments. In parts of Asia, sub-Saharan Africa and Latin America, tech platforms are giving people a voice for the first time and providing a vital forum for sharing information. It was noted that apps such as Telegram and WhatsApp have helped citizens to organize recent protests about civil and political rights in Hong Kong, Nigeria and Thailand. But one participant observed that in many parts of Africa, social media is not accessible to everyone. The cost of data and internet connectivity excludes the participation of those who cannot afford it, which exacerbates inequality.

Working with civil society partners on the ground can help companies to understand better the risks and how they might be mitigated.

One speaker raised the situation in Sri Lanka, where often mainstream media is complicit with the state and will blackout an event, trying to divert attention away from violence. The only means by which civic actors can draw attention to the violence is via social media. In this context, state-centric regulation can have a damaging effect on civic space, as laws on 'fake news' are often a front for increased government power to shut down the internet or control online content or personal data. As one participant observed, what 'do no harm' entails is not the same thing in different countries, whether it be Sri Lanka, Venezuela, Nigeria or the US.

In illiberal and repressive regimes, civil society is dependent on tech companies to act responsibly and resist the enormous pressure to collude, for example in suppression of content and state surveillance. This can be challenging for the companies concerned, when they depend on the host country for their licence to operate. The licence itself may stipulate conditions repressive to civic space, such as in China where companies must agree to government restrictions as a prerequisite for operating. Corporate engagement on civil society space issues in these situations is much more challenging and politically sensitive.

Working with civil society partners on the ground can help companies to understand better the risks and how they might be mitigated, for example avenues for operating while minimizing the censorship of citizen voices. Sometimes the best route for companies to engage with governments on politically sensitive issues will be to engage behind the scenes rather than publicly. In other situations, a multi-stakeholder dialogue may help, as in the case of Cameroon, which has had one of the longest internet shutdowns in Africa. One participant described how

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49 Ushahidi (2020), 'At Ushahidi, We Imagine a World Where Everyone Is Empowered to Participate in Creating a Better World', www.ushahidi.com.

in 2018, Internet Sans Frontières organized a multi-stakeholder dialogue between the government, civil society and multinational tech companies operating in the country.[50] This was the first time that there was a discussion on the ground with civil society. As a result, the shutdown stopped, though the situation remains tense.

Another participant mentioned tech sector actors working with organizations on the ground to build capacity locally, including media literacy so that people understand the use of algorithms to boost certain content, how to operate online without being compromised, and the ability to report harmful content to platforms. It was pointed out that there is an economic incentive for companies to ally with civil society organizations to protect democracy: if the platform is not available for some time due to an internet shutdown, the operating profits of that platform will suffer.

Several participants argued that while there is no 'silver bullet' solution, collaboration is key – both between tech companies and civil society organizations, but also between companies in the same sector, so that they can work in alliance, especially in the most challenging contexts. One participant cited the case of the Asia Internet Coalition writing to Pakistan's prime minister to express human rights concerns about new rules regulating social media.[51] The Global Network Initiative provides another forum for joined-up action by the tech sector and has been especially active over the last few years in opposing network shutdowns in various countries that have chilling effects both on the civic and commercial shared space. The UN can also play an important role, especially in authoritarian contexts. NGOs also work in coalition on civic space issues; for example, Access Now and Internet Sans Frontières are together taking legal action in a bid to challenge internet shutdowns in Cameroon.[52]

5. The way forward

Additional work is needed to encourage the private sector to engage more in civil society space issues, and to help address the various challenges that civil society organizations face around the world. In our discussions, a number of broad themes emerged as pathways for making progress.

Work collaboratively

There are several avenues for companies to explore further their relationship with and impact on civil society space, and how they can help strengthen it. These include partnerships with civil society organizations such as the Business & Human Rights Resource Centre, which can provide helpful resources to businesses on this issue; membership of industry bodies and multi-stakeholder

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50 Internet Sans Frontières (2018), 'Elections in Cameroon: Ideas to Fight Disinformation and Hate Speech Online', https://internetwithoutborders.org/elections-in-cameroon-ideas-to-fight-disinformation-and-hate-speech-online.
51 Asia Internet Coalition (2020), 'Pakistan Citizens Protection (against Online Harm) Rules 2020', https://aicasia.org/wp-content/uploads/2020/10/Letter-to-PM-Imran-Khan_Pakistan-Citizens-Protection-Against-Online-Harm-Rules-2020_06102020-2.pdf.
52 Access Now (2018), 'Access Now & ISF File Legal Intervention against Cameroon Shutdown', www.accessnow.org/access-now-isf-file-legal-intervention-cameroon-shutdown.

initiatives; and dialogue with international organizations working on these issues, including the UN, EU and OECD. The sharing of experiences between different actors can help companies, civil society organizations and international organizations to understand their converging interests as well as areas of potential conflict. Collaboration can also deepen understanding of whether and how to act in different situations. As more companies take necessary stands, deeper insights can also be gained into how to develop more effective multi-stakeholder strategies to address the shrinking of civil society space.

Act collectively

When dealing with governments in relation to suppression of civic space, companies can be more effective if they act collectively, whether through membership of industry bodies, multi-stakeholder initiatives, or in coalition with other companies. Such alliances are especially important in repressive regimes, where push-back from governments may risk jeopardizing permission for individual companies and civil society organizations to operate.

Act contextually

There is no 'one size fits all solution' as to how companies can protect civic space. Strategies for opening up and supporting civic space need to be carefully tailored to the political and cultural context. What works in a democracy – for example, consultation with government – may have the opposite effect in a repressive regime. Companies should consult with local civil society organizations to understand the sensitivities on the ground, the regulatory environment and its implications for civil society space, so that they can think creatively about how they might best support civic space – including whether through public or private action, and whether individually or in coalition. Companies should be prepared to act pragmatically and flexibly depending on the issue or situation.

Move beyond rhetoric to credible action

Businesses that are genuinely interested in supporting and protecting civic space need to move beyond mere statements and symbolic measures. Only real commitment and tangible actions will fulfil the shift from the primacy of shareholders to all stakeholders, which is required for companies to make a meaningful contribution to civic space. Businesses can take concrete action, for example by providing resources to civil society organizations that increasingly lack access to funding; using their position to stand up to abusive government regulation; or working with civil society organizations on the ground to safeguard the position of human rights defenders, trade unionists or journalists. Companies should show indicators of progress and feed back to stakeholders on how their actions have made a difference.

'Build back better' with purpose

The global health crisis arising from COVID-19 has forced many to realize that we live in a shared space that should unite civil society and business around the fundamentals of the rule of law, accountable governance and civic freedoms.

This should be a spur to businesses and other non-traditional actors to take on a more prominent role to safeguard civic space. For this to take place, corporate governance needs to evolve from one based purely on profit to one that considers a healthy and shared civic space to be a fundamental part of its own value system, and an anchor for the stability, sustainability and ultimately profitability of business. The idea of 'build back better', and the growing movement towards 'profit for purpose', may signal some grounds for optimism. The challenge for the private sector is to show that these are not empty slogans, but principles on which companies are prepared to act.

About the conversations

At a time of shrinking civic space, and with the support of the Ford Foundation, the International Law Programme, Asia-Pacific Programme and the US and the Americas Programme at Chatham House hosted conversations on the role that the private sector can play in supporting and defending civic space. Two roundtables were held in September and October 2020, with the first looking at the role of companies in the extractive, manufacturing and services sector, and the second focused on the role of the tech sector. The conversations were held under the Chatham House Rule to encourage candid discussions between private-sector actors and experts drawn from civil society, international organizations and academia. These meetings were an opportunity not only to share perspectives from different stakeholders but also to explore how political and economic dynamics in different regions impact the role that the private sector can play.

The roundtables were complemented by two webinars held in July 2020 and October 2020, which allowed these issues to be explored with a wider network. We are grateful to all those who participated in the roundtables and the webinars for sharing their insights. Recordings of the webinars are available at:

— www.chathamhouse.org/events/all/research-event/webinar-healthy-civic-space-global-health-crisis-what-role-business
— www.chathamhouse.org/events/all/research-event/webinar-tech-sector-engagement-civic-space-whats-business-case

This paper was drafted by Thiago Alves Pinto, project consultant, and Harriet Moynihan, senior research fellow, both of the International Law Programme. The roundtables and webinars benefitted from the input of Christopher Sabatini, senior research fellow for Latin America, US and Americas Programme, along with Champa Patel, director of the Asia-Pacific Programme.

Cover image: Lorenzo Mendoza, president and chief executive officer of Empresas Polar SA, speaks during a news conference outside the company's headquarters in Caracas, Venezuela, on 31 October 2016.

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