



## **SUMMARY OF THEMATIC REPORT AND MAIN TALKING POINTS: CIVIL SOCIETY AND THE PRIVATE SECTOR**

### **IN BRIEF**

- Ongoing concerns over business practices as [State of Civil Society 2017](#) finds activists and human rights defenders killed around land grabs, dams and mine construction.
- CIVICUS supports the move towards an international legally binding treaty on business and human rights.
- The report notes a strong business case for protection of civic space, as social risk can add 10% on average to business operating costs, bribery is estimated to account for around US\$1 trillion a year.
- The reputational and bottom-line risks for companies are illustrated by climate campaigns resulting in institutions committing to pulling [US\\$5 trillion](#) from the fossil fuel industry globally.

### **BUSINESS IMPACT ON RIGHTS**

AS business continues to grow in influence globally, sometimes enjoying asymmetrical power relations with developing states, a new report notes serious concerns over private sector practices that are leading to increased human rights abuses and attacks on fundamental freedoms.

The State of Civil Society 2017 from CIVICUS, the global civil society alliance, notes the need for greater scrutiny of the private sector and calls for new voluntary and regulatory measures to change the way business operates. The report proposes, as a minimum starting point, a 'do no harm principle', with a more active commitment from the private sector to uphold and defend the rule of law, human rights and civic space – that is, people's right of peaceful assembly, freedom of association and expression.

The growth in business influence is being driven by economic globalisation and neoliberal orthodoxy, as embraced by most states and multilateral bodies, as well as new technologies. Public anger with the impacts of neoliberalism and economic globalisation is, however, fuelling the current rise of right-wing populism in many countries, bringing further urgency to the question of how the growing role of the private sector can be harnessed for public good.

Dr Dhananjayan Sriskandarajah, Secretary General of CIVICUS, says: "Business is bigger than ever, exerting a growing influence over our political, social and cultural lives. Most of the world's one hundred biggest economies are now companies, not states. At its best the private sector can help tackle the biggest issues we face from

poverty to economic inequality, climate change and the current crisis of democracy, but some business practices continue to lead to human rights abuses.”

The report notes the rapid and transnational growth of business in many cases is contributing to social, environmental and political upheaval. Many businesses are creating serious human rights impacts, whether directly, by causing environmental damage, displacing citizens or denying labour rights, or indirectly, by fuelling corruption or avoiding paying taxes.

“Everyone should play their part in responding to the challenges we face, including the private sector and there is a strong business case for respecting our civic freedoms,” says Sriskandarajah. “Too often ‘business as usual’ can result in human rights abuses, leading to land grabs affecting indigenous people, the killing of human rights defenders, low wages and attacks on workers rights. Massive global tax avoidance continues to lead to cuts in public spending and is driving global inequality.”

Civil society is also increasingly seeing business as a source of attacks on legitimate civil society activity. The report notes, some businesses are directly targeting civil society activists who seek to hold them to account or prevent abuse, the report finds. Some are active in driving restrictions on civil society space through their influence with governments. Impunity for attacks, particularly on environmental, land and indigenous peoples’ rights defenders and independent journalists, is a persistent problem.

#### **PRIVATE SECTOR NOW A DEVELOPMENT ACTOR**

There are undeniable positives too. “Roughly one billion people have escaped absolute poverty in the last two decades, with two thirds of this attributable to economic growth, while international business has created a million jobs in Asia alone,” note Phil Bloomer of the Business and Human Rights Resource Centre (BHRRC) and Vicky Dodman of Corporate Benchmark, acknowledging the positives of the business boom.

The report notes that in both developed and developing countries the private sector is increasingly taking on the role of the state, delivering healthcare, education, water, electricity, transport and other essential services. New technologies are creating new types of business, including the gig economy, and putting businesses at the heart of the battle for Internet freedom.

Business is now hard-wired into the future of global development. The United Nations (UN), donor countries and multilateral development banks see an increased role for business as being vital to achieving the ambitious Sustainable Development Goals (SDGs). The UN says it will cost [\\$1.4tn \(£920bn\) a year](#) to [end extreme poverty for 700 million people](#) and deliver the SDGs.

The belief is that the private sector can deliver development benefits the public sector cannot, such as sustained economic growth, job creation, greater tax revenue and better innovation and service delivery, the report notes.

As overseas aid contributions fall, Foreign Direct Investment (FDI) in developing countries now eclipses Overseas Development Assistance (ODA) by a factor of five. The private sector may now be both financing and delivering development, but many in civil society question the real social and financial costs of partnerships with business. Patrick Bond, Professor of Political Economy at the University of the Witwatersrand in South Africa, argues that “the power of corporations remains unchecked as every country competes to attract the mythical FDI that will allegedly fix their economic problems”.

China's heralded 'Belt and Road' global infrastructure vision is the latest example of how investments in infrastructure and energy in developing countries continue to be placed at the heart of social and economic development planning, but Gretchen Gordon at the Coalition for Human Rights in Development suggests that poverty reduction and sustainability may not always be the first planning priorities: "Much of the energy infrastructure boom in Africa and Latin America, for instance, is geared not toward meeting urgent public needs for electricity, but toward enabling mining and other extractive industries. Centralised large-scale projects may serve large urban areas, but often are not the right scale for reaching poor or marginalised populations most in need."

### **FEARS OF A RACE TO THE BOTTOM**

The clash of desired development outcomes continues: on the one hand to generate wealth; on the other to enable people to lift themselves out of poverty, end exclusion and realise human rights. If the latter are taken as the true tests of development, the signs are concerning.

As the report notes that the vast scale of global corporate tax avoidance is perpetuating economic inequality, causing essential social services to be cut and even, evidence suggests, ultimately impeding economic growth. [Citizens for Tax Justice](#) estimate that the top 500 US companies hold US\$2.4 trillion of profits permanently offshore, avoiding up to US\$695 billion in tax.

Patrick Bond again: "Firms have moved taxes far beyond state borders, with trillions of dollars' worth of 'illicit financial flows' manoeuvred into offshore financial centres, leaving governments with rising budget deficits and their social sectors experiencing permanent cost-cutting pressures."

US\$50 billion, far exceeding the inflow of ODA, leaves Africa illegally each year, with business seen as playing a key enabling role in this. Roberto Bissio of Social Watch, suggests that "contrary to public perception, the bulk of illicit flows is not done by corrupt government figures, smugglers of arms or diamonds or drug traffic... but through tax-evading transfers originating from legally-established multinational corporations, particularly, but not exclusively, in the extractive sector."

The report finds that governments, regardless of their developmental status, are often engaged in a desperate competition for foreign investment, and forced to allow these outward flows, as well as offering fewer labour protections and reduced corporate tax. A recent [IMF study](#) shows that global average corporate tax rates have almost halved since the 1980s.

On the next lap of this race to the bottom, ethical businesses will find it harder to sustain their position when they are undercut by unscrupulous companies combing the planet for the cheapest labour or lowest corporation tax, and when there are few or weak legal and regulatory obligations, warns the report.

Workers rights are at increasing risk as a result. The report identifies four drivers negatively affecting workers rights: business short-termism and the profit motive, creating a downward pressure on wages along global supply chains; informal work and the gig economy, which limits pay and strips out benefits; the weakening or lack of enforcement of workers rights by governments in order to attract inward investment; and the growing inequality and rise of authoritarianism, which [Shawna Bader-Blau](#) of the Solidarity Centre sees as "closing the space for people to have a voice on the job, in their community and [as] curtailing worker and human rights".

### **THE BUSINESS CASE FOR CIVIC SPACE**

The rise of the private sector comes at the same time as a sustained global attack on

civil society: the [CIVICUS Monitor](#) indicates that the space for civil society – civic space – is severely restricted in 106 countries. Many political leaders now in power, including the current wave of neo-fascist leaders seen in several countries, have amassed considerable personal fortunes from transnational business connections, which makes them sensitive about scrutiny from civil society.

At its worst, restricting civic freedoms may be tacitly perceived as being good for business, by making it easier to operate and to produce cheaper goods for consumers in the Global North. International Trade Union Confederation (ITUC) data points to a rise in restrictions on workers rights, with demonstrations stopped or workers experiencing retaliation for expressing their views in [50 countries](#) in 2016, nine up from 2015; the right to collective bargaining is also denied in more than half of the countries it monitors.

As [repressive Ethiopia's 9.6 per cent economic growth](#) rate in 2015 suggests, countries that prioritise economic growth may be open for business, while being closed for civil society.

This is despite the strength of the business case for open civic space, when the costs and risks for businesses are considered. Former UN Special Rapporteur [Maina Kiai](#) suggests that “the presence of a robust, vocal and critical civil society sector guarantees, almost without exception, that a state also possesses a good business environment... The rule of law is stronger, transparency is greater and markets are less tainted by corruption. In other words, when civil society does well, business does well too.”

UN Global Compact [research](#) suggests that poor governance and corruption adds on average 10 per cent to the cost of conducting business, and the difference between operating in a low corruption climate to operating in a context with higher levels of corruption can be 20 percent of profit. Bribery is estimated to account for around US \$1 trillion a year, which impacts on a company's bottom line and reputation.

The State of Civil Society 2017 report also notes that recent research puts the economic cost of internet shutdowns, as experienced in Anglophone region of Cameroon this year, at US\$2.4billion. This puts a clear price on the failure to defend online civic space.

The response from civil society has been varied, with innovation a key driver of successful campaigning for greater corporate accountability. The report highlights the successes of a new wave of global divestment and boycott campaigns. Ellen Dorsey and Clara Vondrich, of the Wallace Global Fund and Divest-Invest Philanthropy respectively, point to the impact of climate activists campaigns to pressure shareholders and funds to divest of fossil fuel, saying that “under activist pressure, investors with assets of over US\$5trillion have committed to divest from fossil fuels.”

Divest-Invest Philanthropy, is a coalition of 140 philanthropic organisations controlling US\$12 billion in assets, have pledged to divest from fossil fuel companies and invest in climate solutions.

Many global businesses already recognize the value in ethical and human rights centred practices. Bill Anderson of Adidas points to a long track record of engaging with civil society. “Engagement has usually followed one of two paths, either as a response to advocacy campaigns, or as part of our own outreach around topics of shared interest, in particular global supply chains, worker's rights, occupational health and safety, environmental protection, sports and health”, says Anderson, “we are also engaged with a range of civil society groups with respect to our philanthropy and corporate responsibility programmes.”

Nicholas Patrick of global law firm DLA Piper, part of a business network on civil society and human rights defenders: “Ultimately businesses can only succeed where there is strong rule of law. Civil society is both an indicator and a facilitator of a strong rule of law. Civil society also plays an important role in monitoring and keeping accountable democratic institutions and businesses. Also, civil society is increasingly monitoring supply chains in high risk jurisdictions where monitoring and enforcement of regulations by authorities is weak.”

Honduras is one such jurisdiction. The killing of Berta Cáceres and Nelson García in March 2016 provoked international outrage, “yet in this case, Berta’s assassination led to the withdrawal of investors from the project, and the fate of the dam is in question,” says Adam Shapiro of Frontline Defenders. “Increased international attention made it possible to pressure investors to suspend involvement in and move to withdraw from the project. Two investment banks... made clear statements in response to the killing.”

### **NEW GUIDELINES FOR BUSINESS AND CIVIL SOCIETY**

CIVICUS is calling for a new effort from the private sector to honour both voluntary and regulatory measures, and reduce the negative impact of transnational business on human rights and civic space.

Frank Vogl, a founder of Transparency International, relates the extensive role civil society advocacy has already played in establishing international norms: “Thanks to the leadership of civil society there is a formidable web of conventions, such as the OECD Anti-Bribery Convention, the UN Convention Against Corruption and large numbers of relatively new national laws and manifold regulations, including tough measures in a rising number of countries against money laundering and tax evasion. New laws and regulations against tax avoidance are likely before long”.

However, there is a need to both encourage best business practice, through strategies of reputational risk and reward, and to put in place mandatory global norms for business, and measures to ensure compliance. To that end, CIVICUS supports the move towards an international legally binding treaty on business and human rights, as proposed at the UN Human Rights Council in 2014, and encourages a wider range of civil society to engage with that process.

The guidelines also call for a greater respect for existing international norms, conventions and human rights instruments, including upholding the spirit and social justice focus of Agenda 2030 and the Paris Agreement, and working with civil society to deliver on these, rather than cherry pick aspects of the agreement that most closely fit corporate agendas.

### **ENDS**

#### **Notes to Editors**

#### **Further reading**

The full Year in Review 2017 and Private Sector review can be found [here](#).

#### **About the State of Civil Society Report 2017**

Each year the CIVICUS State of Civil Society Report examines the major events that involve and affect civil society around the world. Part one of our report reviews the past year, focusing on the space for civil society and the impact of a resurgence of right-wing populist politics; the right to express dissent; protest movements; and civil society’s international-level actions. Part two of our report has the special theme of civil society and the private sector.

Our report is of, from and for civil society, drawing from a wide range of interviews with people close to the major stories of the day, a survey of members of our network of national and regional civil society coordination and membership bodies - the Affinity Group of National Associations (AGNA) - and 27 specially-commissioned guest articles on different aspects of the theme of civil society and the private sector. Most of our inputs come from civil society, but we also sought the views of people working in government and the private sector.

Our report also draws from CIVICUS' ongoing programme of research and analysis into the conditions for civil society. In particular, it presents findings from the [CIVICUS Monitor](#), our new online platform that tracks the space for civil society - civic space - in every country, and the [Enabling Environment National Assessments](#) (EENA), a civil society-led analysis of legal, regulatory and policy environments.

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