GUEST ESSAYS

REIMAGINING THE ROLE OF BUSINESS IN DEFENDING CIVIC SPACE

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CLOSING SPACE – NEW, OLD OR FORGOTTEN?

January 2017 saw mostly peaceful protests across cities in the USA, as well as globally, by people in an increasingly interconnected world voicing their concerns over the impact of recent developments on the rights of various groups of people. This space to exercise our core civic freedoms to speak out, challenge and hold the government to account is crucial to the core tenets of democracy.

Our concern, like many others, is the increasing trend of closing this space. Of 195 countries covered by the CIVICUS Monitor as of May 2015, 169 countries had some kind of restriction on civil society, from narrowing opportunities to speak out to more serious forms of repression that resulted in deaths of citizens and human rights defenders. This trend of closing space is not new, but the speed at which this phenomenon is spreading across the globe is unprecedented and the response has been severely inadequate. The trend is not limited to countries such as Cambodia and Egypt. It includes established democracies such as the UK and the USA.

Restrictions on civil society are the canary in the coalmine for broader freedoms of assembly, association and expression that are critical to stable government. Undermining civil society undermines society as a whole. An independent civil society that acts as a critical friend is necessary for maintaining the rule of law, strengthening a system of checks and balances and giving voice to the diverse populations that live in today's globalised cities and countries. Human rights organisations and funders are working on these issues, but the implications are much wider. This involves all of us.

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REIMAGINING THE ROLE OF BUSINESS – WHY?

There are a number of initiatives spearheaded by different organisations to push back against this trend and keep these spaces open. Charities Aid Foundation (CAF) has written about this previously as well as published a series of reports pointing to policies that help build trust and strengthen an enabling environment for an independent civil society. My contribution to the 2017 State of Civil Society Report will focus on positive examples where business has stepped up to defend civil society space, as highlighted in our recent report, Beyond Integrity. I explore recommendations from four cases that suggest ways in which civil society and business can realise a new paradigm of engagement and partnership.

Businesses occupy a crucial role within the changing global context. The spread of neoliberal policies and large scale globalisation in the 20th century has resulted in an unprecedented increase in the number of businesses operating across borders. During the 1990s approximately 35,000 parent multinational corporations owned roughly 170,000 foreign affiliates. By the end of the decade, 60,000 parent companies had more than 500,000 foreign affiliates, which accounted for a quarter of global output at the time.

Out of the 100 largest economies in the world, only 58 are states while the remaining 42 are corporations. This rising influence and scale has also seen the role of businesses transition from one of simple profit-making to one in which they are actively identified and involved as key partners in achieving global goals, including the Sustainable Development Goals (SDGs).

This has implications for the changing roles of stakeholders in development discourse. Who has visibility, voice and validity in these partnerships and collaborations? How does this extend to civic space? What are the different strengths and weaknesses that need to be understood to build effective partnerships in defending civic space?

BUSINESSES OCCUPY A CRUCIAL ROLE WITHIN THE CHANGING GLOBAL CONTEXT

Table 1: Potential strengths and weaknesses of governance actors[1]

Actor	Strengths	Weaknesses
Private sector	Technical capacity Economic resources Internal control	Legitimacy Experience / knowledge Collective action
State	Legitimacy Enforcement capacity Domestic institutional strength	Reliance on foreign direct investment Corrupt or kleptocratic officials
Civil society	Awareness building Issue-specific local knowledge	Legitimacy Limited issue focus

There are a number of international legal frameworks that have evolved for business and that recognise its expanding role and influence. The development of these demonstrates businesses' growing realisation that they should not only be good corporate citizens but should also take a proactive approach to protecting and promoting human rights. John Ruggie's 'Protect, Respect and Remedy' framework, adopted by the United Nations (UN) Human Rights Council in 2008, calls for companies to respect human rights, avoid any infringements and address the negative consequences that may arise. The UN Global Compact, which has been signed by 9,000 companies and 3,000 non-businesses across 170 countries, lays out 10 principles, all calling for companies to respect and protect human rights.

However, there is a lack of a global governance system that can enforce compliance with these principles, which creates a vacuum in which the global private sector operates. The issue of transnational accountability, where multinational companies are operating in a global policy space that does not yet have the global framework in place to enforce compliance, is uncharted territory. While all businesses will not take the lead in embracing this changing role, and some might even push back, there are some businesses that are stepping up and responding to the issue of closing space.

BEYOND INTEGRITY: BUSINESS AS A COUNTERACTING FORCE TO THE CLOSING SPACE

Within the changing global political context, which impacts on the relationship between government, civil society and private sector, CAF commissioned a piece of research in partnership with the London School of Economics and Political

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Science (LSE). [Beyond Integrity: Exploring the role of business in preserving civil society](#) identifies positive cases where businesses have defended civil society space, defined here as the extent to which the freedoms of association, peaceful assembly and expression are realised. Our aim was to understand how such actions came about, with the intention of highlighting best practices and recommendations, both for civil society and businesses.

While there are a number of cases where businesses have taken action, publicly available information about such cases is very limited. This could be for a number of reasons, such as sensitivities around businesses challenging government policies; a desire by businesses not to come across as being seen to be lecturing the host country; a need to safeguard an investment; and a lack of institutional memory.

The four case studies in the report were therefore developed through desk research and interviews with 31 key protagonists across civil society, academia and businesses, as well as the activists involved themselves. This included representatives from organisations such as Amnesty International, Business and Human Rights Resource Centre (BHRRC), C&A Foundation, Ethical Trading Initiative (ETI), H&M, Human Rights Watch, Inditex, New Look, Oxfam and Puma.

[2] Taken from 'Beyond Integrity: Exploring the role of business in preserving the civil society space', CAF, 2016, p. 17.

Table 2. Four examples of business intervention to defend civil society[2]

Angola Freedom of Expression	Rafael Marques was arrested for exposing government-sanctioned injustices in the Angolan alluvial diamond mining industry. Civil society actors led a movement to demand his release, engaging with diamond companies Tiffany & Co., Leber Jeweler and Brilliant Earth. The resulting international campaign was augmented by open letters from those firms and others urging the regime to respect Marques's freedom of expression, eventually resulting in the charges against him being dropped.
Cambodia Freedom of Association and Peaceful Assembly	Large protests broke out in Cambodia over minimum wages for garment workers which were violently repressed by the government, leading to 4 deaths and 21 illegal arrests. In a series of open and private letters, international garment retailers joined with civil society and international labour movement to control the government's retaliation and create a more peaceful negotiation process.
Pakistan Freedom of Expression	The Pakistani government had released a tender asking IT firms to develop a URL filtering system. Local CSOs along with international CSOs mobilised leading IT firms to make a public commitment to refrain from submitting bids in support of freedom of speech.
Thailand Freedom of Expression	Human rights activist Andy Hall was detained in Thailand after uncovering abuses in migrant labour practices. Industry associations – Thai Tuna Industry Association (TTIA) and Thai Frozen Food Association (TFFA) – posted his bail, expressing their concern against his arrest.

A 'BUSINESS CASE' FOR ACTION

Challenges that persist include those of language and a lack of a shared understanding of the different drivers and challenges, including contextual, geographical and sectoral challenges. These challenges need to be understood and overcome in order to realise a shift towards companies defending civil society. Why should companies shift away from the traditional role of the firm towards taking a proactive rights-based approach? Why should companies apply a civil society lens in what they do and how they do business?

There are a number of enlightened businesses that realise the importance of a strong, independent civil society in maintaining the rule of law, counteracting corruption and ensuring effective accountability mechanisms are in place. These have been proven to be key factors in ensuring economic and social stability across time, which is important for growth and lowers the risk for multinational investments and the cost of compliance. This is especially beneficial for businesses that make long-term investments in a country. As, Sarah Hopkins, Country Sustainability Manager (Cambodia and Vietnam) for H&M commented:

> *"One of the key things to know is that we don't own any of the factories in our supply chain. We share our business partners' factories with other brands. So it is in our common interest to ensure worker rights are respected and that we support an environment for investment and growth. Despite the competition between brands, we all have an interest in ensuring the sustainability of the supply chain."*

However, not all businesses take a long-term perspective. Articulating the business case, or case for action, in a manner that speaks to the motivations and drivers that impact on business can be effective in eliciting action, as well as in helping companies to justify how action relates to their business sustainability. The strength of an independent and strong civil society that not only demands accountability from governments, but also functions as a valuable transparency mechanism to ensure commitments are met, can help companies in achieving real impact. This can offer a compelling case for partnership as it addresses the challenges and complexities that businesses face. For instance, civil society organisations (CSOs) can act as an accountability mechanism that supports companies to adhere to public commitments, such as the UK's Modern Slavery Act. The Act requires companies operating across borders that have extensive supply chains to prove that their supply chains are free from slave labour. The potential for local grassroots organisations in the host country to help share the responsibility of eliminating abuses in the supply chain could make a very compelling case for businesses to work with civil society.

Consumer activism, employee responses and shareholders choosing to take a strong stance can all nudge businesses to influence governments into taking action. In January 2017, approximately 200,000 Uber accounts were deleted as a response to Uber's decision to provide services during a New York taxi strike, held as part of protests against President Trump's decision to impose a travel ban on citizens of seven predominantly Muslim countries. The company was seen as unsupportive of broader grassroots activism, and consumers moved to distance themselves from it accordingly.

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More broadly, the employee make-up of multinational companies is also reflective of the globalised world we live in. As a result, we have seen how employees are now holding CEOs to account and demanding a response to growing concerns about the repression of their freedoms.

WHAT DO THE CASES IMPLY FOR FUTURE PARTNERSHIPS?

The four cases set out above highlight the ability that businesses have to protect and defend space for civil society, through networks and advocacy strategies, and through a company's adherence to strong values.

### TAKING ADVANTAGE OF NETWORKS AS A WAY OF ENGAGING WITH INDUSTRY LEADERS

Cross-sector networks can play a crucial role in bringing civil society actors and businesses together to take coordinated action. The effectiveness and responsiveness of networks depend on a few key factors. Contexts, such as international public scrutiny following the Rana Plaza disaster, in which the collapse of a factory complex in Bangladesh in 2013 resulted in 1,135 deaths, brought large retail businesses into the spotlight for not taking responsibility for their employees. This was a precursor to the situation in Cambodia, as set out above, where violently repressed protests triggered quick action on the part of the large retail businesses based in Cambodia.

The presence of leaders who can help catalyse action within a network also has an impact on the swiftness and effectiveness of co-ordinated action. In Cambodia, the International Labour Organization (ILO) and ETI played a catalytic role in coordinating action that resulted in 30 international garment brands and three international labour unions sending a private letter to the Prime Minister of Cambodia. This letter was sent within two weeks of the clashes, urging the government to respect the freedom of assembly and the rights of those detained, and recommending that the mechanism for wage setting be reviewed and reorganised: an unheard of turnaround time for such action, given how long sign-off processes and agreement on wording for such initiatives can take.

The four cases all highlight different types of agents who took the lead in connecting CSOs with businesses. In Angola, the role of a values-driven CEO, Brian Leber of Leber Jeweller, Inc., and BHRRC in championing Rafael Marques' cause helped trigger a movement that generated industry-wide support from a number of jeweller organisations such as Brilliant Earth, Tiffany & Co. and others. Such networks allow businesses to mitigate some of the risk and political sensitivities associated with challenging governments while gaining legitimacy as they work in partnership with CSOs.

CROSS–SECTOR NETWORKS CAN PLAY A CRUCIAL ROLE IN BRINGING CIVIL SOCIETY ACTORS AND BUSINESSES TOGETHER TO TAKE COORDINATED ACTION

Figure 1. Social network analysis of the Rafael Marques case in Angola[3]
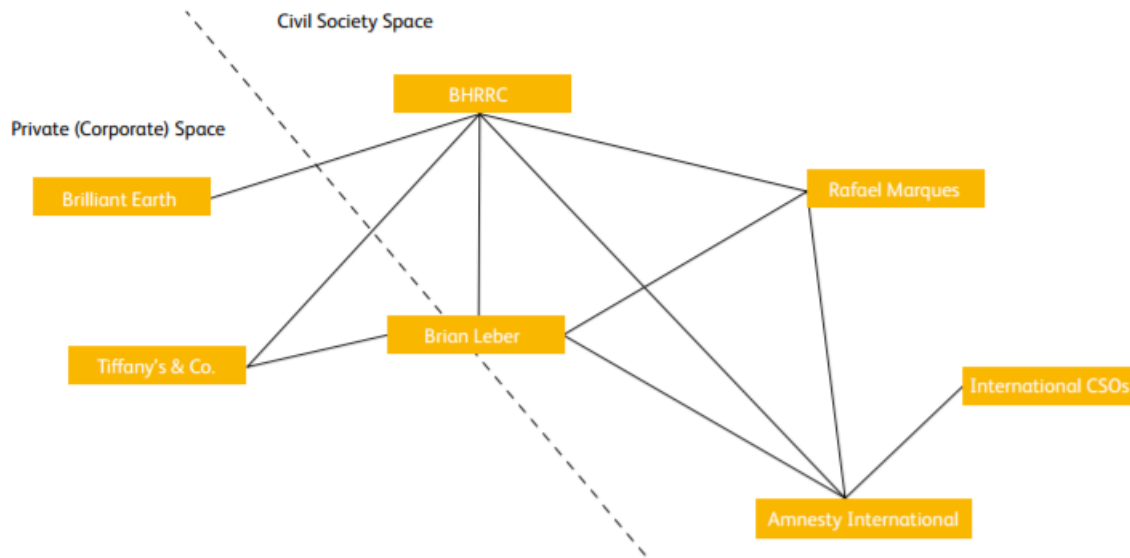
By identifying and engaging in such networks, local, grassroots CSOs can leverage key players within these structures who they can work with to amplify the volume on issues.

ADVOCACY STRATEGIES USED BY BUSINESSES

This brings us to another interesting finding that has implications for how CSOs can successfully engage with businesses. Most of the actions that businesses take to support civic space are done behind closed doors, which make it a challenge to identify and document cases. An interviewee in the Beyond Integrity project estimated that 70 per cent of such discussions take place without any public mention in the press.

That being said, companies in the four cases set out above did take action by issuing public statements of support, as well as by not bidding for pieces of work, and through private and public letters and closed door discussions. Leveraging connections through existing networks can help CSOs play a role in drafting messages for businesses, while understanding the constraints they may be operating under. The interviews also highlighted that companies may have collective action policies where a certain number of competitors need to agree to speak out in order for a company to sign up.

COMPANY TYPES

Another striking finding from our research was the role that small, private companies with strong ethical values embedded at the core can play in catalysing businesses to take action. Such businesses are easier to contact and can have greater flexibility in responding to situations. We saw this in the case of Rafael Marques and Brian Leber's commitment and engagement in taking immediate action. However, the radius of impact of smaller firms on their own can be limited. Their influence can be amplified through networks, as discussed above, which can get larger businesses to act. CSOs should identify firms that can play a key role in setting the agenda and bringing issues to the attention of larger players.

A company's motivation to respond and ability to influence a government varies from industry to industry. Consumer-facing industries are impacted on more greatly by trends towards ethical consumerism and public 'naming and shaming' campaigns, and their work is more easily visible. Further, some industries may have more leverage in particular countries. This was true of the retail companies in Cambodia and the tuna industry in Thailand, where both sectors contribute significantly to the export revenue in the respective countries. Identifying business areas that have a greater economic impact on the country and targeting them could be a useful strategic starting point for civil society to engage businesses in holding governments to account.

A WAY FORWARD

The cases outlined here are reactive responses and further work needs to be done in identifying how such partnerships can be formed and sustained to counteract closing space proactively. A deep dive into the complexities and drivers surrounding different sectors, such as retail, mining and IT, could be very useful in understanding how best to work across different fields in preserving civic space.

Further work is required in exploring questions such as how and why business responses vary across different countries. Another question that emerges is about the lens through which we aim to understand why some companies choose to take action in one country rather than another. And how do we, as civil society, respond in supporting businesses when positive action is taken, so we can amplify and encourage others to take similar steps? We hope the cases and recommendations in the report can facilitate further thinking and action to accelerate this emerging paradigm of business and civil society collaborating to protect and preserve civil society space.