



# SEPTEMBER YEAR IN REVIEW




**YEMEN:** After civil society advocacy, the UN set up an independent group to investigate human rights abuses in the Yemen conflict.




**MEXICO:** Civil society was at the forefront of response after two deadly earthquakes struck the county.




**CARIBBEAN:** Civil society was also the first to respond as devastating hurricanes hit the Caribbean.



**KENYA:** In a rare show of judicial independence Kenya's Supreme Court insisted that the presidential election be re-run.



**SOUTH AFRICA:** Civil society scored an important legal victory, winning a court case to make political parties reveal the source of their funds.



**UGANDA:** Amid controversial moves to change the constitution to let President Yoweri Museveni stand again, civil society was targeted in a series of police raids.



**UNITED NATIONS:** The private sector's prominent role at the UN General Assembly prompted concerns among many in civil society.

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September saw moves at the international level, welcomed by civil society, to challenge impunity for gross human rights violations. An independent expert group to investigate human rights abuses in **Yemen** was finally established by the UN, following years of civil society advocacy. In another step towards challenging impunity, the UN Commission of Inquiry on Burundi, in its **report** released in September, concluded that there were reasonable grounds to believe crimes against humanity had been committed, including extrajudicial executions, arbitrary arrests and detentions, torture, sexual violence, cruel, inhuman and degrading treatment, and enforced disappearances. Many of these violations were targeted at civil society activists. Following a UNHRC vote to extend the Commission's mandate, the government of Burundi showed its contempt for international rules by dismissing the Commission as part of an "international conspiracy" against Burundi. The following month, the ICC opened its **investigation** into crimes against humanity in Burundi, with which the government said it would not cooperate.

**Kenya's Supreme Court** surprised the world with a display of judicial independence in September when it declared that the country's presidential election must be re-run, although Kenya's political and civic space remained fraught and contested. **South African civil society** scored an accountability victory, winning a court case to make political parties reveal the sources of their funding.

The annual **SPEAK!** campaign, convened by CIVICUS, saw four days of global action from 22 to 25 September, demonstrating the hope and power that comes when people unite across borders and speak as one. Over 46,000 people participated in 232 events in 65 countries, while more than 7.5 million people were reached online. Silent protests were staged from Indonesia to Macedonia, the hashtag #TogetherWeSpeak trended from the Netherlands to Uganda, and songs of freedom and resistance rang out from Tunisia to Venezuela. SPEAK! is a global campaign to raise awareness of increasing attacks on fundamental freedoms, break down barriers of division and build global solidarity.

In a long-overdue move, in September it was announced that women in Saudi Arabia would be recognised as having the **right to drive**. This welcome change came as part of a series of tentative reforms introduced by Crown Prince Mohammad bin Salman, who assumed de facto power in June and vowed to **reduce** his economy's oil dependency by promoting entertainment, IT and service industries, which implies the need for some social and political reform. However, civil society and human rights activists, including women's rights activists, continued to face severe challenges: executions, the export of repression to Bahrain and Yemen and the denial of the freedom of expression are among the rights violations documented in this review, and in August, 11 activists from the Saudi Association for Political and Civil Rights, banned since 2013, were given jail terms of 105 years collectively and travel bans of 94 years collectively for their peaceful human rights work. September also brought **several arrests** of academics, clerics and writers, indicating how far Saudi Arabia still has to go if its reformed, post-oil vision is to be taken seriously.

In another indication of the challenges **women's rights defenders** face, Nepali activist **Rajkumari Upadhaya** was attacked by a mob, assaulted and accused of being a witch. She works to combat domestic violence and the persecution of women as witches. A police officer was alleged to have been involved in the attack.

On 16 September, prominent investigative journalist **Daphne Caruana Galizia** was murdered by a car bomb in Malta, in an attack said to bear the hallmarks of a mafia-style assassination. Daphne had worked to expose the corruption of Maltese politicians and officials, and their links to organised crime and dubious business practices, excavating evidence from the Panama Papers leaks. She had alleged high-level complicity in practices such as the sale of Maltese passports, money laundering and organised criminal involvement in Malta's lucrative gambling industry. Prime Minister Joseph Muscat and his ruling party were frequent targets of Daphne's work. Daphne's family began **legal action** against the Maltese police, on the grounds that the investigation

was being run by someone she had written critical articles about. In October, Civil Society Network – Malta organised a protest in the capital, Valletta, to call for justice for Daphne. In December, 10 people were arrested on suspicion of involvement in the murder, with a trial ongoing at the time of writing.

Elsewhere changes in laws and constitutions gave civil society concern. Georgia's parliament voted for a **new constitution** in September, which will move the political system towards a parliamentary one and make the office of president indirectly elected. Opposition parties **walked out** of parliament in protest, complaining that, as with constitutional changes elsewhere, the real motivation was to keep the ruling party in power. While civil society was involved in consultations on the constitution, key inputs appeared to have been ignored in late changes. As well as the lack of broad political consensus on the constitution, concerns remained over judicial independence, media pluralism and the lack of accountability of law enforcement and security bodies.

In Moldova, there was concern that proposed amendments to a **new law** could make it harder for CSOs to receive funding from international sources and introduce onerous new reporting requirements with heavy penalties for non-compliance. CSOs also led **protests** throughout 2017 against proposed changes to the electoral system which, again, those opposed feared would increase the power of dominant parties. People who protested against the proposals complained about experiencing **intimidation** and being **excluded** from coverage on public media. Meanwhile amendments **passed** in September to the Law on NGOs in Montenegro caused concern: the law gave the state new powers to reject the registration of new CSOs and reduce the state's financial support to CSOs.

The government of Haiti announced it had **banned** over 250 CSOs from operating in the country, on the grounds that they were disconnected from the needs and priorities of Haitian citizens. Ominously, the government stated that the work of CSOs must be guided by its leadership. In Uganda, a

**renewed crackdown** on civil society saw raids on the offices of several CSOs, amid a controversy about moves to change the rules to enable the incumbent president to run again.

A draft law introduced in Papua New Guinea **threatened** to remove the power of the Independent Commission Against Corruption to arrest and prosecute people suspected of corruption and give the prime minister the power to appoint the Commission's members, severely compromising its autonomy. Following civil society advocacy, the government announced it would not be going ahead with the changes. Tunisian civil society was not so fortunate: the **Administrative Reconciliation Act**, granting amnesty to public officials who benefited from corruption during Tunisia's long era of dictatorship, was approved by parliament. Civil society, notably the Manich Msamah (we will not forgive) movement, **campaigned** vigorously against the law, on the grounds that it will not serve Tunisia's fledgling democracy. Following the parliamentary vote, around 3,000 people marched in protest, although security forces blocked their route.

Protesters gathered outside Guatemala's National Assembly to **demand** that politicians who supported a law weakening the Criminal Code's provisions against corruption resign. Protests were dispersed with teargas, but following these, the Constitutional Court **suspended** the new law, which would have seen many convicted of corruption walk free. The month before, President Jimmy Morales attempted to expel the head of the independent, UN-backed International Commission against Impunity in Guatemala, after it began investigating the financing of his 2015 election campaign. President Morales was well aware of the Commission's power: its dogged investigations of Guatemala's endemic corruption fuelled the public outrage that **ousted his predecessor**.

In the UK, civil society **expressed dismay** when the government announced it would make no changes to the controversial Lobbying Act, despite numerous recommendations made by a government-commissioned review. The

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Act, which focuses on CSOs but not business interests, limits civil society campaigning during election periods. The Act was **criticised** by a coalition of 160 CSOs and the UNHRC, and CSOs **reported** on the chilling effect and self-censorship the law induced during the UK's June elections. Civil society concern also focused on the danger of a state power grab without adequate oversight as the UK rewrites its laws on leaving the EU: in response, over 70 CSOs formed a **new alliance** to scrutinise the EU withdrawal bill and resist a concentration of executive power.

In Ireland too, CSOs expressed concern about an apparent **tightening** of the rules on civil society campaigning and resourcing. Two CSOs, Amnesty International Ireland and Education Equality, were asked to return international donations for campaigning, or potentially face criminal sanctions. The change threatened to cause particular problems for CSOs campaigning on abortion rights. The following month, Australian civil society launched a **campaign** against its government's proposals to ban or limit the use of international donations for advocacy. As well as the impacts on civil society's ability to engage in scrutiny and advocacy in these countries, the concern was that regressive moves could be used by less democratic governments to justify their attacks on civil society, not least because Amnesty International Ireland's donation came from the George Soros-backed **Open Society Foundations**, under attack elsewhere (*see June*).

Turkmenistan's government further intensified its repression of civil society ahead of hosting the **Asian Indoor and Martial Arts Games**. The Games were held at a time of economic strain for the state, calling into question its priorities, while also risking international exposure of its dismal human rights record. Some foreign journalists planning to cover the Games had their accreditation refused or withdrawn, and those attending were accompanied at all times and asked to sign a contract agreeing not to cover negative stories. The run-up to the Games also saw numerous examples of the harassment and surveillance of activists, and forced participation of people in Games ceremonies and rehearsals. One involuntary participant was reported to

have died of heart failure after being forced to stand in the sun for hours during a rehearsal. More forced mobilisations were seen on **New Year's Eve**.

In Jamaica, a **police shooting** in the Granville community sparked angry protests in which residents lit fires and blocked roads. Protests were also seen in Armenia, where students **demonstrated** about proposed changes to military conscription rule, and Peru, where hundreds of people **marched** in the city of Huaral angered at the permission granted to a mining company to start exploration at an important water source. Swaziland saw several **protests** during September, including demonstrations for democratic and socioeconomic reforms and on student issues. The University of Swaziland was closed by the police, students forcefully removed and nine students arrested.

Police responded with **pepper spray** in the city of Jyväskylä in Finland when people tried to prevent the deportation of an Afghan family. The incident came at a time of rising tension and polarisation over issues of race and migration in Finland. These tensions were seen across Europe, not least in Germany, where September elections saw the far-right Alternative for Germany (AfD) party enter parliament for the first time. AfD **came third** with 12.6 per cent of the vote, while votes for Germany's two main parties declined. The result, consistent with broader international trends of many people rejecting conventional politics and embracing more extreme positions, was troubling for many in civil society, given the racist and xenophobic nature of AfD's politics. Following the elections, Germany's main parties struggled to agree on a coalition. Meanwhile, voters in **referendums** in Italy's two wealthiest regions, Lombardy and Veneto, voted for greater autonomy from central government, a result seen as a boost for the anti-immigrant Northern League party.

An independence referendum was held in Iraqi Kurdistan in September, although Iraq's central government declared it illegal. Not surprisingly, the vote was overwhelmingly in favour of independence. Space for the



freedom of expression **suffered** during the referendum, with several TV stations prevented from broadcasting and journalists harassed. As tensions increased between the governments of Iraqi Kurdistan and Iraq following the referendum, journalists continued to find themselves targeted. In October cameraman Arkan Sharif was killed when an unidentified group stormed his house.

Kazakhstan was another place where the freedom of expression remained heavily restricted. **Zhanbolat Mamay**, editor of the opposition Tribuna-Sajasi kalam newspaper, was found guilty of dubious money laundering charges. Having served seven months in detention, he was released, but with a sentence of 120 hours of forced labour, freedom of movement limitations and a three-year ban on practising journalism, a punishment inconsistent with the supposed offence. This was one of a slew of restrictions on journalists, which encompassed forced psychiatric detentions, defamation suits and reported interruptions to social media access.

In Serbia, amid rising threats to journalists, several media outlets and CSOs blacked out their websites or went **off air** on 28 September. The protest was called after news site Vranjske announced it was closing because of economic and political pressure from the state. In Ghana, the media regulator **closed down** 34 radio stations and fined 97 others for failure to renew their licences three months before expiry. Those closed included many aligned with the main opposition party, prompting legal action and an attempted protest the following month, for which the police denied approval. In Lesotho, the government announced it was **closing down** radio station MoAfrika FM; its owner, Candi Ramainoane, was subsequently arrested on defamation charges. South Africa Broadcasting Corporation's Lesotho correspondent Nthakoana Ngatane also fled Lesotho after receiving death threats while covering political unrest.

Viet Nam remained a country where it is dangerous to speak out on social media. In September, citizen journalist and co-founder of the Association of

Catholic Former Prisoners of Conscience, **Nguyen Van Oai**, was sentenced to five years in jail and four subsequent years of house arrest for offences while on parole from a previous sentence. He had used Facebook to campaign for social justice and the release of political prisoners. His imprisonment came as part of a broader crackdown on dissenting voices ahead of Viet Nam's hosting of the Asia-Pacific Economic Cooperation summit in December: by November, it was estimated that Viet Nam had **over 100** political prisoners locked away. **Three activists** were detained after meeting an EU delegation ahead of the annual EU-Viet Nam Human Rights Dialogue, and in all, at least 25 online activists were detained in 2017 alone, including **Nguyen Van Hoa**, who received a characteristically heavy sentence of seven years after posting about a chemical spill that caused widespread environmental damage. Another environmental rights defender experiencing time behind bars was **Raleva** in Madagascar, detained after speaking out against the activities of a Chinese goldmining company.

**Hurricanes Irma and Maria** caused unprecedented devastation to a number of the Caribbean's islands and **two high magnitude earthquakes in Mexico** left hundreds dead and thousands injured. The disasters brought impressive civil society responses, and raised questions about governance and effective reconstruction.

At the **UN General Assembly in New York**, civil society welcomed the support expressed by many states for the Paris Agreement, in defiance of President Trump's stance against it. States also gave broad support to UN reform proposals, but civil society was concerned about the clear and growing space given to private sector interests at the event. In another concerning development for civil society, **Vitit Muntarbhorn** resigned from his role as the UN's first Independent Expert on sexual orientation and gender identity after only a year in office. His resignation was made on health and family grounds, but he also stated that opponents had made the role "heated" and "caustic," with many states remaining **strongly opposed** to the position. The establishment of the role was a major victory for civil society, working with

supportive states, and his resignation raised the worry that it could now be renegotiated, or at the least remain fiercely contested.

## YEMEN: AN INTERNATIONAL RAY OF HOPE AMIDST AN ONGOING CONFLICT

A potential international-level breakthrough in **Yemen's** long-running conflict came in September. The conflict has its origins in the 2011 Yemeni Revolution, which led to the ousting of President Ali Abdullah Saleh after more than two decades in power, and intensified in 2015 when rival forces started a brutal battle for control. In September a UNHRC resolution was passed setting up an independent expert group to investigate human rights abuses by all parties in the conflict. The group has a mandate to monitor and report on human rights, examine violations, establish the facts of violations and identify those responsible. Its **three members** were announced in December.

While offering a compromise that stops short of the full-scale commission of inquiry that many in civil society called for, the resolution – passed in the face of fierce opposition from the Saudi Arabian government, which had tried to limit response to a toothless national inquiry body – offers some potential to challenge the widespread impunity that has characterised the conflict. It came, **Phil Lynch** of **International Service for Human Rights (ISHR)** notes, after years of intensive civil society advocacy:

*For many in civil society, the decision made by consensus at the 36<sup>th</sup> session of the UNHRC to establish an independent investigative body on the conflict in Yemen was the highlight of 2017, albeit a decision that should have been made at least two years earlier in line with calls by the UN High Commissioner for Human Rights. The body – comprising eminent international and regional experts – is mandated*

*to investigate war crimes and other violations perpetrated by all parties to the conflict, with a view to both promoting accountability and deterring future abuses. Such crimes include the bombing of civilians, torture and enforced disappearances, the use of landmines and cluster bombs, and the denial of access to food, water and humanitarian aid, among other gross deprivations.*

*The adoption of the resolution followed sustained advocacy by a coalition of over 60 international, regional and Yemeni human rights CSOs, complemented by principled leadership by a group of states led by the Netherlands, together with Belgium, Canada, Ireland and Luxembourg. Significant in its own right, the adoption of the resolution also sent a strong message to the likes of Saudi Arabia that membership of the UNHRC is not a guarantee against scrutiny by that body and may even expose a country to heightened international attention.*

As the long international deadlock indicates, Yemen's conflict is not the country's alone. While its origins are in a three-sided battle for power and territory between the government of President Abdu Rabbu Mansour Hadi, the Houthi forces once allied to former president Ali Abdullah Saleh – which turned against and **killed Saleh** in December – and extremist group al-Qaida in the Arab Peninsula, the Yemen conflict is one in which numerous outside forces are in contest. Yemeni citizens are the victims in this international jostle for supremacy. **Radhya Almutawakel** of **Mwatana Organization for Human Rights** describes the international forces at play and the devastating consequences for Yemeni people:

*Since the Houthis – also known as the Ansar Allah armed group – and their then ally, former President Saleh, took control of the capital, Sana'a, on 21 September 2014, Yemen entered a new phase of armed conflict. On 26 March 2015, a Saudi-led Arab Coalition of nine countries launched a military campaign against Houthis and Saleh*

forces, to support the government of President Hadi, with the USA providing intelligence and logistical support.

Outside forces have played a destructive role in Yemen, either through direct military intervention, as in the case of Saudi Arabia and its allies, or by supporting one of the warring forces, as in the case of the USA, UK and France, which support Saudi Arabia, and Iran, which backs the Houthis. The declared goal of the military operation launched by Saudi Arabia was to reinstate President Hadi, but it has destroyed the country in the process.

Instead of promoting peace in Yemen, powerful nations like the USA, UK and France have aligned with Saudi Arabia either through considerable arms deals or through multi-faceted political support. One of the worst results of this was their lobbying against the establishment of an international mechanism for investigating violations committed by warring parties in Yemen.

As for Iranian support of the Houthis, their intervention resembles a situation in which there is a mouse running around a residential building, and the building gets destroyed when searching for the mouse, and in the end neither the building is saved nor the mouse found.

Although it managed to expel Houthis from the southern governorates, the state is not yet functionally back in charge of these areas. No state institutions, including a judiciary, have been activated, and no national army has been established. In comparison, the promotion of armed groups has not ceased, and worryingly, some of these are extremist and fundamentalist religious groups.

After two years of war in Yemen, none of the internal or external warring parties have a clear vision of what to do next. The only



Yemeni women protest against the conflict

Credit: Getty Images



*indisputable fact of this war is that Yemen has become a humanitarian man-made catastrophe.*

Despite the small step forward achieved in September, the reality on the ground therefore remained grim for Yemen's citizens, who continued to live through a humanitarian crisis in which the impacts of conflict were exacerbated by the effects of air and sea **blockades** repeatedly imposed by Saudi forces, which left the country unable to import food, medicines and other essential supplies. This led to **famine** and the worst **cholera** outbreak in modern history. Offering some amelioration, Saudi forces allowed some food and medical **aid** into Yemen in late November and **reopened** a key port for food aid and fuel in December.

Radhya goes into more detail about the impacts of the conflict on people:

*Mwatana Organization has documented grave rights violations by the Saudi-led coalition resulting in the killing of thousands of civilians, mostly women and children. This coalition has struck residential compounds, public markets, cultural and heritage sites, hospitals, schools, bridges and factories.*

*We have documented extensive violations by the Houthis, including the use of landmines in different areas of Yemen. We have also documented violations including extrajudicial executions by the forces of President Hadi and allied parties and armed groups.*

*Both parties share responsibility in the indiscriminate shelling of civilians and civilian facilities, child recruitment and denial of humanitarian access, in addition to arbitrary detentions, enforced disappearances, torture, violations against the freedom of speech and the disappearance of a free press, harassment of minorities and other grave violations.*

Yemen's civil society was badly affected by the conflict; as Radhya describes it, each successive development in the conflict brought worsening conditions for civil society:

*Civil society had only recently started to develop in Yemen, and all the progress that had been achieved has been set back in the current inhospitable environment, characterised by high political instability and a lot of violence.*

*Before 2011, civil society in Yemen had become fairly strong in the face of a number of violations committed by the Saleh regime. At that point the Saleh regime was the main violator of human rights, and organisations of different affiliations were able to unite against the abuses. But after the 2011 revolution and ascent of the opposition, which became a partner in government, and because of the multiplicity of violators as well as the increasing political polarisation, the voice of these organisations was significantly diminished and they were not able to form any more alliances or initiate any kind of joint work. It was clear that human rights organisations lacked minimal independence.*

*All recent political developments have weakened Yemeni civil society to unprecedented levels. Rights violations against organisations and their staff increased exponentially and the scope of the work they were allowed to do dramatically decreased. Many human rights, humanitarian and development organisations were forced to reduce their activities and staff or close down altogether.*

*The first weapon wielded by conflicting parties against independent CSOs, and especially against human rights organisations, was the orchestration of extensive incitement and smear campaigns through social media as well as their own private networks. By defaming independent human rights organisations, all conflicting parties*



*have prejudiced the public against their work and their employees. Mwatana Organization and our staff have been the victims of many of these campaigns launched by either Houthi armed groups or by Saudi Arabia, the Hadi government and their allies... All parties are seeking to corrupt civil society by establishing their own biased organisations and deploying funds to deform civil society work and justify various human rights violations.*

*Many activists, including members of the Mwatana team, have been threatened and detained by all conflicting parties. Countless restrictions have been placed on human rights, humanitarian and development-related activities, to the extent that long procedures and several official permits are now required to carry out a single training activity – with a good chance that even after going through all the hassle the activity might end up not being authorised. Many restrictions have also been imposed by all parties on travelling to and from Yemen... Nobody has made any attempt to shield CSOs or their staff from the impact of the armed conflict; in fact, many of them have been endangered while carrying out their duties.*

Amidst the conflict, journalists continued to run the risk of death or detention. In April **Yahya Al-Jubaihi** was sentenced to death in a behind-closed-doors trial controlled by Houthi forces on charges of spying for Saudi Arabia. He had criticised the actions of Houthi forces. Fortunately, he was **released** in September, having been held by Houthi forces for almost a year. Two journalists, **Takieddin al-Hudhaifi** and **Wael al-Absi**, were killed in May while covering clashes between government and Houthi forces, with two others injured. In August Houthi forces abducted and apparently tortured journalist **Abdel Rahim Mohsen**, and arrested and detained online activist **Hisham al-Omeisy**. Radhya describes how the abuse of the freedom of expression has extended to the online arena:

*Violations of the freedom of expression are commonplace, and media diversity is lacking. As a result, social media have become the key outlet for many human rights and humanitarian organisations. However, conflicting parties are now trying to disable these platforms as well, by using an army of trolls to defame any independent civil society work.*

Alongside the UNHRC resolution, another small ray of hope was brought by an August **email leak**, which revealed that Saudi Crown Prince Mohammed bin Salman apparently wants to withdraw from Yemen, suggesting some possibility for a peaceful resolution. But in the meantime, as Radhya concludes, civil society is still trying to play its part in extremely difficult circumstances. Giving support to Yemen's civil society is one of several urgent actions needed to help build a path to peace:

*Despite all the obstacles, there are a number of human rights and humanitarian organisations that still struggle on the ground to play a variety of roles. A number of humanitarian organisations are working to deliver humanitarian aid and services to affected populations; human rights organisations keep working to document human rights violations; and development organisations are carrying on their educational and training programmes in territories ruled both by Houthi armed groups and by Hadi and the armed groups that are loyal to him.*

*Civil society needs to build capacities in every aspect of their competence; it needs to professionalise and reinforce its resource base with long-term projects. There is need to support the construction of Yemen's institutions, and capacity needs to be built so that institutions are able to respond to the deteriorating situation.*

*To achieve peace in Yemen, all the warring parties would need to take steps to reduce pressure on civilians and build confidence. This*

*includes ceasing human rights violations, releasing detainees, giving more space to humanitarian, human rights and media organisations to do their work... and fulfilling a variety of urgent humanitarian requirements.*

*At the international level, arms deals with the warring parties must be stopped, and the priority of human rights issues must be established. Yemen also needs a new peace process with the international community playing an independent and stable role. Dialogue must bring in all parties on the ground, with no exclusions.*

## MEXICO: TWIN EARTHQUAKES DEMAND BETTER RESPONSE

Two earthquakes hit Mexico in September, leaving hundreds dead and thousands injured. An 8.2 magnitude quake struck on 7 September, with its epicentre in the Gulf of Tehuantepec, affecting an estimated 1.5 million people, chiefly in the states of Chiapas and Oaxaca, and causing at least 96 deaths. And then on 19 September, a second quake of 7.1 magnitude in Central Mexico was more devastating still. It caused severe damage in the capital, Mexico City, and the states of Guerrero, Mexico, Morelos, Puebla, Tlaxcala and Veracruz. It left at least 370 people dead and over 6,000 people injured, mostly in Mexico City, where over 60 buildings collapsed.

Past editions of the **State of Civil Society Report** have examined how civil society is often the first responder to natural disasters and the humanitarian emergencies they create. Disaster response often throws up challenges of coordination and ensuring that affected communities have a voice, and exposes existing governance problems, including in Mexico's case the corrupt practices that enabled the construction of unsafe buildings. Exposure of those

shortcomings can lead to protest: in November, multiple demonstrations were held by people from affected communities reacting to the government's poor response in providing aid and reconstruction.

In the wake of the earthquakes, we spoke to Eduardo Alcalá and Sarahí Salvatierra from **Fundar: Analysis and Research Centre**. Their responses reveal a familiar pattern of government failings contrasted with community self-organising, suggesting vital lessons for long-term reconstruction work:

*The earthquakes provided evidence of several shortcomings regarding the prevention of and response to the effects of natural disasters, which the Mexican government should urgently address.*

*The official response should include the following elements. First, it should ensure the dissemination of accessible, clear, accurate and high-quality information. This is decisive for first response, for adequately rolling out the rescue of survivors, their care and the recovery of their assets. It is also key for tackling the reconstruction of survivors' homes and their communities' infrastructure, and for providing living conditions that are appropriate to their needs. The government's responses to information needs did not meet the minimum transparency standards for natural disasters.*

*Second, the official response must take account of the fact that during the emergency phase, citizen participation, undertaken out of solidarity and willingness to help, gets organised and coordinated in a natural and virtuous manner. Actions undertaken by communities to address the emergency phase were evidently more timely and effective than official strategies. Social media enabled a community response much more agile and efficient than bureaucratic processes. Although it helped keep order in some respects, the involvement of the government also frequently generated confusion and resulted in policy measures not necessarily in accordance with international protocols regarding the rescue of survivors and preservation of lives.*

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*Third, the government's response must include citizen participation in decision-making towards reconstruction. Strategies and interventions must be designed and implemented in accordance with the highest human rights standards. Participation not only empowers communities but also ensures greater coherence between policies and the priorities of communities. It is vital that the Mexican government enables, promotes and implements effective citizen participation mechanisms for the design of reconstruction plans and strengthens dialogue with citizens on a permanent basis.*

*Fourth, the government's response must be accompanied by adequate accountability mechanisms, based on effective information platforms and systems, so that it becomes possible to monitor in real time the physical progress and financial aspects of reconstruction plans. The Mexican government should introduce substantive improvements in accountability and citizen control mechanisms. Citizens should be able to monitor reconstruction processes in all their dimensions, including the disbursement of public resources and resources from private donations. The current regulatory framework is not very robust in this respect and its procedural shortcomings make adequate supervision difficult.*

*The earthquakes confirmed the existence of structural and procedural failures, as well as the need to strengthen controls and accountability throughout implementation and procurement processes. The mapping of the most affected communities made it clear that these had greater vulnerabilities and greater inequalities long before the earthquakes hit. Similarly, it has been observed that women are the main victims of disasters, while women also had an unprecedentedly **prominent role** in the first response following the earthquakes.*



Rescue workers search for survivors in Mexico City

Credit: Getty Images



International support proved vital to the response in Mexico, but as is often the case, created its own problems regarding the efficient and transparent use of resources, continue Eduardo and Sarahí:

*After the earthquakes, we received lots of solidarity from the international community. Support ranged from humanitarian aid in kind and technical assistance for the rescue of survivors to a large flow of financial contributions collected from donations by various actors in the international community, both public and private.*

*The **Budget Transparency website** offers official information about the donations the government received from various countries and international organisations, including the UN Disaster Assessment and Coordination. However, the publication of information does not suffice to ensure that resources meet the needs of populations affected by natural disasters.*

*The plurality of international sources of resources increases the need for efficient instruments for their administration, guarantees of transparency in their execution and mechanisms for citizen participation in decision-making and monitoring to ensure that resources reach their target. Expressed as a mere amount, the flows of financial resources do not say much: in the shortest term, of course it is important that these funds do not end up in the wrong pockets. But in the long term, what really matters is that resources materialise in clear strategies and actions that ensure that reconstruction takes place on the basis of a human rights approach. It would be important for the donors of funds to show interest in the destination of these resources and in the impact that they are having on the fulfilment of their aims.*

If progress is to be made in improving decision-making, accountability and transparency, and challenging inequality, corruption and impunity, then civil

society's role must be understood as going far beyond immediate response. To improve the response next time and ensure that reconstruction best serves affected communities, Eduardo and Sarahí indicate how the government must take account of the full range of civil society contributions:

*First, various organisations have worked to place the need for better urban and housing planning at the centre of public debate. Second, in the face of disasters such as earthquakes, droughts, hurricanes and floods, civil society has contributed through the provision of information and implementation of participatory mechanisms to address the specific needs of affected communities. Third, through civic platforms and citizen initiatives, civil society has been involved and applied its expertise in different areas to improve processes in the aftermath of a catastrophe.*

*Several novel initiatives emerged. One was the **#Epicentro** platform, made up of civil society, academic and business organisations, and volunteers. With the motto "Social reconstruction with integrity," **#Epicentro** emerged from an initiative by 10 core organisations, which increased to over 100. This initiative seeks to promote citizen participation in the various phases of reconstruction, demanding the highest transparency and accountability standards from the government. Attention to reconstruction is key because it involves much more time and resources than the emergency itself: it has been estimated that reconstruction will take three years and cost about 30 billion pesos (approx. US\$1.6 billion), much of which will come from the private sector. Over such a long period media attention will decline, and given the amounts of cash involved, lack of oversight is likely to have enormous costs. In this particular case, the period of reconstruction will overlap with the 2018 electoral process, and it will therefore be necessary to minimise the risk of a political and clientelistic use of the resources meant for reconstruction.*



*#Epicentro represents a long-term citizen commitment. The format of the platform, designed by young specialists on civic technologies, is innovative compared to the Mexican experience of building citizen monitoring networks, alliances and initiatives, not only because of the number of organisations and volunteers involved and their diversity and thematic and technical complementarity, but also because of the degree of coordination achieved around a common goal.*

*So, although volunteering was one of the most visible faces of civil society in the moments immediately following the disaster, our presence has far exceeded it. Civil society has promoted the analysis and discussion of approaches to reconceptualise the notion of wellbeing for people affected by natural disasters. We know that 'rebuilding for rebuilding's sake' is worthless; we need to rebuild on the basis of a human rights perspective. This means not just building houses but also reactivating communities, promoting development in a way that fits each population's needs, prioritising the requirements of the most vulnerable groups and ensuring better living conditions in order to be prepared for similar events in the future.*

*We have specialised knowledge and experience to spare, and the government should recognise this by promoting a fluid dialogue and adopting commitments with civil society. All this, however, requires great political and administrative will, and it will hardly happen unless we make our demands. Just as with any other advocacy process for structural change, this will not be easy. It will take a permanent and long-term effort, throughout which we should never lose sight of the principles and practices of public information, participation and accountability.*

As Eduardo and Sarahí conclude, the aftermath of the earthquakes has opened up potential to improve cooperation between government and civil society and make some progress on Mexico's profound governance problems, including its highly restricted civic space ([see August](#)):

*This is an ideal opportunity to tackle problems, vulnerabilities and inequalities from their root. The Mexican government should not waste this opportunity. It must improve the conceptualisation and design of the normative and procedural framework on the basis of human rights principles and standards. It must also transform the institutional practices through which it implements its actions and spends public resources. In that sense, the earthquakes have opened a window of opportunity, which the government must take advantage of, to launch a strategy of collaboration with civil society.*

*Decision-making toward these aims would contribute to addressing not only the immediate issue of the response to emergencies but also several other problems that cut through the public agenda: the lack of transparency and accountability, inequality, corruption, human rights violations and impunity.*

## CARIBBEAN: DEVASTATING HURRICANES BRING CIVIL SOCIETY RESPONSE

Two massive hurricanes, Irma and Maria, struck the Caribbean in September, causing unprecedented damage to several islands. Hit particularly hard by **Hurricane Irma** were Anguilla, Barbuda, Saint Barthélemy, Saint-Martin/Sint Maarten, Turks and Caicos and the Virgin Islands, as well as the US mainland. Irma was estimated to have caused over 130 deaths, and billions of US dollars in damage to infrastructure and economies. In Barbuda, **95 per cent** of structures were reported destroyed. While the Caribbean was beginning to recover, the following week **Hurricane Maria** struck, hitting Dominica, Guadeloupe, Montserrat and Puerto Rico most severely. Maria caused an estimated 550 deaths, mostly in Puerto Rico and Dominica. In terms of cost, it was said to have caused more damage than any hurricane in Puerto Rico's



Damaged homes after Hurricane María made landfall in San Juan, Puerto Rico

Credit: Getty Images

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history, while Dominica's vital agricultural industry was reported to have been almost completely wiped out.

As in the case of the Mexico earthquakes, the hurricanes exposed governance shortfalls, and as governments struggled to respond, civil society mobilised. Many were angered by the failings exposed: while **Cuba** was hit less hard by Irma than others, the state's slow response to electricity blackouts and water and food shortages brought a rare spontaneous protest to the streets of the capital, Havana. In a region often missing from the international map, the disasters raised questions of how rescue and rebuilding resources could be mobilised, and how the region's former colonial powers should give support. For Puerto Rico, the sluggish and seemingly begrudging response of the US government towards its territory brought civil society **criticism**.

**José Iván Vega** of the Business and Economic Development Centre at the University of Puerto Rico describes the damage done to his country by Maria:

*Hurricane Maria cut us through the middle, crossing the entire central part of the island. When it hit, the hurricane was Category 5 and carried winds of 155 miles (250 km) per hour. We were really very scared. I had lived through other hurricanes, but Maria did not compare with anything I had seen before, in either strength or duration. Maria hit the island for 12 hours straight.*

*We had been warned and were prepared, and the loss of life directly attributable to the hurricane was of just a few dozen. What had not been foreseen was that the electric supply would be interrupted almost entirely and that communications would collapse. As a result of the hurricane we lost 95 per cent of the electricity supply, heavy floods left many areas isolated and telecommunications failed. The drinking water supply became problematic. In mountainous areas were populations that remained isolated for about a month and locations that still had no electricity more than three months after*

the hurricane. *Official statistics* diverge from other sources regarding the numbers of victims. In the weeks following the hurricane, the collapse of hospitals, and of the healthcare system in general, resulted in hundreds of additional deaths.

Hurricane Maria was the worst natural disaster that affected Puerto Rico over the past century. It caused enormous devastation: according to the government's estimates, material damage amounted to US\$95 billion. The reconstruction of infrastructure will take years... The mental health of the population has also been affected; it will take us some time to recover. Today, a hurricane alert would cause a state of collective hysteria.

**Mary Ann Gabino** of the **Puerto Rico Community Foundation (FCPR)** indicates how the disaster exacerbated existing economic and social challenges:

*Puerto Rico already had weak infrastructure. Its energy, water and roads systems had weakened as a result of many years of neglect. We also had a telecommunications system that, despite being relatively new, was quite fragile, possibly because in recent years too many private companies had entered the market and did not foresee Puerto Rico's geographic fragility. Before Irma and Maria hit, Puerto Rico was already going through a fiscal crisis and an economic recession into its 11th year. The effects of this crisis were visible: an unemployment rate of 10 per cent and the migration of nearly 400,000 people to the USA between 2010 and 2016. This situation was aggravated by the hurricanes. More than 200,000 Puerto Ricans left the island after Hurricane Maria, and some 31,000 people lost their jobs.*

In the face of the catastrophe, civil society stepped up and offered a dynamic and varied response, as José describes:

*Civil society came to fill the vacuum left by the insufficient state response and played a role of a prominence that I had never seen*

*before. It showed great resilience and an enormous ability to do much with quite little.*

*Civil society played a prominent role at the community level. In fact, the social fabric emerged stronger from the emergency. As emergency care in the most isolated areas was so slow to arrive and turned out to be insufficient, there was lots of local self-organisation instead. Neighbours who did not know one another before got organised to coordinate emergency assistance, aid distribution and water supply. Churches were very active in promoting community response.*

*Puerto Rico se levanta* ('Puerto Rico rises') was a civil society initiative that included some government entities as well as private companies, aimed at helping businesses recover. I took part in this initiative, and one of the first things we did was relieve and attend to immediate needs, such as by distributing electric generators that would allow businesses to function again... At the University of Puerto Rico, where I run a support centre for social and innovative entrepreneurs, we organised a programme to provide training to community organisations so that they could improve their accounting and financial management in order to obtain 501(c)(3) status, which allows organisations to receive help and donations from foundations and other organisations in the USA.

Mary relates how her organisation also helped support rapid community response that quickly shifted into longer-term thinking, and helped mobilise resources from individual donors:

*Puerto Rican society reacted immediately. Around eight to 15 organisations came to us every day. At first, they came to request support to clear roads blocked by landslides, which left many areas totally isolated. First of all they tried to restore communications among people. They also needed to supply hot food to communities.*



*Some organisations that requested our help immediately started thinking about the long term. An organisation in the city of Yauco asked for help not only to open a road, but also to dig a well to supply the community. Very soon the opening of community wells and the strengthening of community aqueducts would become a strategic focus area for us. This decision was made by taking into account the potential of civil society to organise around the provision of water in communities. Similarly, there was an organisation in Salinas that told us about the possibility of creating a solar micro-grid. Community-based organisations, driven by representatives of communities, were telling us that it was possible to build alternative infrastructure from the ground up.*

*After the hurricanes hit, we managed to raise US\$9.3 million. In the immediate aftermath, US\$1.3 million was delivered to around 80 CSOs serving the 78 municipalities of Puerto Rico.*

With so many of Puerto Rico's people living in the USA, the mobilisation of the diaspora by civil society was hugely important, José recounts:

*When speaking about civil society in Puerto Rico, we refer not only to civil society on the island itself but also to the civil society of the diaspora. Puerto Rico is home to 3.5 million people, but there are between 5 and 6 million Puerto Ricans living outside the territory, mostly in the USA, and many have families in Puerto Rico. It is my impression that the Puerto Ricans of the diaspora preferred to channel their aid through civil society rather than the government, because the image the government conveyed was one of ineffectiveness and there was greater confidence that civil society would be capable of providing timely assistance to those most in need. As a result, several initiatives were launched to channel assistance from the diaspora through civil society, or through alliances integrating government and*

*non-government actors. And, as can be observed on the websites of these initiatives, civil society was very careful in reporting on the funds raised and spent... In the USA, some of our best-known artists, such as Jennifer Lopez, Marc Anthony and Ricky Martin, became involved in fundraising efforts, most of which were channelled not through the government but through CSOs.*

*It is worth mentioning the fundraising and distribution of funds for reconstruction undertaken by **ConPRmetidos**, a well as the **Shop HirePR** initiative, which is a directory of online stores owned by Puerto Rican entrepreneurs that allows customers overseas to place their orders. The objective of this initiative, aimed mainly at the diaspora, was to boost the local economy and create jobs, thereby contributing to long-term economic recovery.*

And the role of the diaspora, José relates, went beyond donations, taking on advocacy for Puerto Rico:

*The call by the mayor of San Juan, **Carmen Yulín Cruz**, along with interventions by Puerto Rican celebrities and political leadership, had a mobilising effect. The Puerto Ricans of the diaspora, many of them desperate to get in touch with their loved ones, mobilised contacts and resources so that the US government would provide a quick and forceful answer. They managed to mobilise the Army Corps of Engineers and have a hospital ship sent, which provided care for about two months. In states with a large Puerto Rican population, Puerto Ricans appealed to their representatives in Congress, some of whom travelled to the island. And they managed to bring in the President of the USA – with somewhat **unfortunate results**.*

*In Washington DC a 'Unity March for Puerto Rico' was held to demand the cancellation of Puerto Rico's debt and assistance for reconstruction from the USA, and was endorsed by numerous Puerto Rican celebrities.*



However, although the diaspora was prominent in responding, support from further afield was lacking, José believes:

*Although the most natural connection that Puerto Ricans have is with the USA, fundraising activities also took place in other part of the world, such as in London, but were generally led by members of the diaspora. Apart from that, I think that not much support was received from foreign civil society – possibly because of our political relationship with the USA, which either hinders or discourages it, insofar as the international community assumes that the USA is taking care of the issue.*

It is important to learn the lessons about how official responses can be improved, and how civil society's role in responding can be enabled and supported, but looking forward, if the pattern of increasingly extreme weather events is to be reversed, we need to talk about climate change, suggests Mary:

*We have paid very little attention to the effects of climate change. The great droughts that we had in the past have left great sedimentation and plant material in many reservoirs, which caused rivers and streams to find ways out of their natural course. The erosion of our coasts has become increasingly apparent, and as a result of this the sea has come increasingly close to many communities, which in many cases were already vulnerable. In this context, the natural disaster that hit our island with unexpected fury was worsened by human inaction.*

In the Dominican Republic, **Enrique de León** of the National Committee to Combat Climate Change further suggests that the disasters should give renewed impetus to action on climate change:

*We have always had hurricanes in the Caribbean. But they have changed in intensity, frequency and predictability. 2017's hurricanes were consecutive and aligned, which had not happened in a long time. And they had very unpredictable behaviour. This is due to climate change, and more precisely to the increase in temperature caused by the growing concentration of carbon dioxide particles. We know that the enormous volume of carbon dioxide emissions throughout the planet is creating the conditions for hurricanes in the Caribbean to become more frequent, intense and difficult to forecast.*

*Global warming constitutes a particularly serious threat to island countries, which are vulnerable to sea level rise. More than 80 per cent of our population lives in coastal areas, and we are losing territory. The temperature rise is also affecting biodiversity in our reefs and, as a result, is affecting*

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*the viability of fishing. This means that our food security is at stake. Hurricanes are causing extreme weather phenomena.*

Concerted political action must be taken, concludes Enrique:

*We can and must take political action, which would consist in appealing to the international community, and particularly the countries that bear the greatest responsibility for the emission of carbon dioxide, so that they reduce their emissions. And we must also do the same; although the Dominican Republic's emissions are low in absolute terms, they are very high when calculated per capita. So we bear co-responsibility and are not in a position to demand that others reduce their emissions if we are not doing it ourselves.*

*Unfortunately, we depend on the will of governments and politicians, who in many parts of the world respond to very narrow economic interests. The withdrawal of the USA from the Paris Agreement is a catastrophic setback, and an expression of the fact that the leadership of that country is willing to risk a global holocaust to preserve their profit rates.*

*This is a political battle that cannot be fought by just a few people, and which, like all crucial struggles, must be fought in the streets. We have to take humankind out to the streets to make clear that we are not willing to sacrifice ourselves for the sake of a minority's profits.*

## KENYA: RARE SHOW OF JUDICIAL INDEPENDENCE DENTS PRESIDENTIAL CONFIDENCE

Kenya had the unusual distinction of holding two disputed presidential elections in 2017. The 8 August election, which saw incumbent President Uhuru Kenyatta claim victory with a recorded 54 per cent of the vote, was unexpectedly annulled by the Supreme Court at a 1 September hearing. By four votes to two, the Court found that the electoral oversight body, the Independent Electoral and Boundaries Commission (IEBC), had made “systemic” and “institutional” failures in conducting the election. In a country and continent where judicial independence is often compromised, this was a **shock verdict**: the **first time** an African court had overturned an election result. The response from President Kenyatta was to **call** the Supreme Court judges “crooks,” and **intimidation** of judges reportedly followed.

Following the verdict, governance specialist **Paul Okumu** gave his reaction, which was one of surprise and joy at the show of judicial independence, but also of caution about whether the moment would last:

*We received several messages of solidarity and excitement from across Africa, with many African citizens and civil society telling us that this was a victory for the continent and not just for Kenya. Never in their existence had the courts overruled the executive in the manner the Kenyan judiciary did. The judiciary always shied away from challenging orders seen or perceived to touch the executive, and this ruling was totally unexpected, considering that the incumbent president is for all purposes the final appointing authority of members of the judiciary.*

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*The most ecstatic part was that citizens, as well as all arms of government, respected the judiciary and agreed to follow the orders. It gave citizens a breath of fresh air and confidence in the judiciary. It also reaffirmed the supremacy of the constitution and the power of citizens.*

*Being the first time, perhaps the excitement was temporary and it was not clear if indeed this was a reflection of a new activist and accountability stance of the judiciary. The ruling party is using its new majority in both houses of parliament to push through laws that will dramatically weaken the Supreme Court and IEBC.*

Following the Supreme Court verdict, the presidential election was re-run on 26 October. Defeated opposition candidate Raila Odinga refused to stand in the re-run, claiming vast irregularities including the hacking of the electronic voting system and insisting he was the true winner of the August election. Citing a lack of requested reforms of the IEBC, he tried to have the re-run postponed and urged supporters to boycott the vote.

Civil society was active: in October the We The People coalition, which brought civil society groups, including trade unions, together with academics, journalists and other concerned people, **called** for the re-run to be postponed, amid conditions of worsening violence, saying that it was not possible to hold free, fair and credible elections at that time. A petition to postpone the election could however not be considered by the Supreme Court, because **not enough** judges turned up for the hearing, hinting at possible intimidation.

The credibility of the second election was strained as the IEBC found itself **under pressure** from both sides. Ahead of the re-run, IEBC Commissioner **Roselyn Akombe** resigned and fled to the USA, claiming her life was under threat; Chief Executive Officer **Ezra Chiloba** said he would take leave instead of monitoring the election; and Chairman **Wafula Chebukati** said that he could not guarantee the re-run would be credible. Ahead of the



A woman votes at a cardboard voting booth in Nairobi, the capital

Credit: Getty Images



re-run the government **banned** opposition protests in major cities calling for IEBC reform.

When the election went ahead, the result was a walkover, in which President Kenyatta triumphed with 98 per cent of the vote, but on a low turnout of 39 per cent, compared to the 80 per cent who voted in August. The October result was upheld by the Supreme Court, which dismissed further petitions from civil society about procedural failings, possibly signalling reluctance to stand up to presidential power again. President Kenyatta was duly sworn in on 28 November.

As the election process grew ever more polarising, political violence flared at every turn. Amnesty International **recorded** that at least 66 people were killed in election-related violence between August and November. Following the August vote, at least **24 people**, including a baby, were killed as the police suppressed an opposition protest; in November violence **flared** in opposition strongholds after the Supreme Court upheld the re-run result. Many other examples could be given. Disturbingly, among the casualties was **Christopher Msando**, ICT Manager of the IEBC, who was found dead of strangulation in July, his body showing signs of torture.

When protest violence occurred, it was usually accompanied by excessive police response. As President Kenyatta was sworn in, an opposition protest was **broken up** by police using teargas and plastic bullets, resulting in several deaths. At **least five** people died when police dispersed Raila Odinga supporters who gathered to mark his return to Kenya from the USA. In all, it was **reported** that there were 57 deaths during the first round of elections and 35 deaths between the two elections.

The EU's election observer **report** drew attention to the intimidation of CSOs, the media and judiciary during the elections, as well as disproportionate state force, opposition violence and improper use of state resources. Although President Kenyatta promised at his swearing in to build bridges, the actions

of his government did not match this rhetoric. Ahead of the deadline for filing petitions on the re-run to the Supreme Court, the government, presumably shaken by the challenge it had encountered, cracked down on civil society groups that had criticised the electoral process. In November, We The People and Kura Yangu Sauti Yangu, a citizen-led coalition, **were both ordered** to cease all “political operations” and election-related work. The two were accused of illegally operating bank accounts and employing foreigners, and receiving funding from George Soros; once again in 2017 (*see June*), the accusation of being Soros-funded was used to vilify civil society groups. Later in the month, the NGO Coordination Board **banned** the two from operating. The same month, three civil society groups – Inuka Kenya, Katiba Institute and Muslims for Human Rights – were **summoned** to respond to charges of money laundering and illegally employing foreigners; it seemed they were targeted for their work in scrutinising the elections.

These moves followed a well-established pattern: just after the August election, the NGO Coordination Board **de-registered** the Kenya Human Rights Commission (KHRC), and the police and revenue agencies **raided** the offices of the African Centre for Global Governance (AfriCOG), following which the NGO Coordination Board **ordered** that it be closed down. Both had criticised the election process and called for greater transparency. That same month, KHRC board member and former UN Special Rapporteur Maina Kiai was detained at an airport while trying to leave Kenya. Kenya's High Court revoked the decision to close down AfriCOG in December.

Given high stakes and a polarised climate, journalists faced a high risk of threats and violence: following the August vote, the **Committee to Protect Journalists** spoke to 10 journalists who had been harassed or assaulted, largely by the police, with some also attacked by members of the public. In several instances, as well as using violence, police deleted reporters' footage. These experiences were likely to be the tip of the iceberg. In February, the head of the civil service also **banned** any government body from placing ads in privately-owned media. As in many other countries, government advertising



is a huge source of media revenue, estimated to make up to a third of their income. The move was therefore seen as an attempt to subdue independent media in the run-up to the elections.

Events around the 2017 elections also called into question the role of international election observers, many of whom had been quick to declare the August election as fair, casting doubt on their credibility and motives: they stood **accused** of overlooking fundamental flaws in favour of stability and the hope of avoiding violence. As Paul notes, civil society was also open to accusations from both sides of the debate:

*There was great polarisation based on the Supreme Court ruling. A section of civil society, under the Elections Observer Group, endorsed the August election and agreed with donors and observers that it was free, transparent and fair. They even agreed with the reported win of 54 per cent, insisting it was based on their own scientific polling. They were left looking very foolish and seen as agents of donors and the government. The result was that they are now not seen as part of a neutral civil society.*

*But the rest of civil society, especially those engaged in human rights, were not seen in a good light either. This was the second time in as many elections that they were directly challenging the elections alongside the opposition. And so they are also seen as partisan, even though they were vindicated this time by the Supreme Court ruling.*

Kenya experienced brutal violence that left over 1,000 people dead after the 2007 elections. The events of 2017 indicate that the causes behind that conflict have not been resolved, meaning that looking ahead, the situation could seem grim. Political polarisation seems entrenched, a significant section of the population is apparently unwilling to accept the election outcome and a government with reduced legitimacy is lashing out at fundamental rights. But Paul counsels the outside world to see an enduring positive in a

Supreme Court judgement that says something profound about the nature of democracy, that civil society should try to emphasise, build on and sustain momentum from:

*Remember that the main thrust of the Supreme Court judgement was not the manner in which the elections were conducted. The majority ruling accused the IEBC of redefining democracy and ignoring that democracy is a process. It rejected the view that democracy begins with elections. In doing so the IEBC was accused of not following the entire democratic process that leads to elections – from public confidence-building to ensuring transparency in the entire process in the period leading to and the period after the elections.*

*Unlike 2013 when the Supreme Court based its judgement on numbers, this time the Court refused to be drawn into recounting votes. The Court argued that if the process was flawed, and if there was proof that the constitution was violated in the process leading to and after the elections, then the numbers did not matter. This was a departure. The Supreme Court decided that Kenya should move forward and define democracy in a much broader way than just elections. This is a game changer for other supreme courts around the world. For Africa, the judiciary has stamped its authority as the guardian of democracy, and not just an arbiter in electoral disputes.*

*The elections in Kenya also showed just how perceptions vary between Africa and Europe. In many European countries, the ruling was treated with apprehension, fear and doom. They felt that Kenya was headed for more chaos and the ruling should have at least balanced what they call 'nascent democracy' and avoided a hard landing. On the contrary, there was jubilation and excitement across all of Africa and most of Asia. Citizens saw this as a renewed hope for a continent that has been defined by the west as unable to manage its democracy. For many citizens, this was a point of triumph and victory, on our terms as Africa.*

*Africa needs more messages of hope, not doom and constant suspicion. The negative descriptions we give to the continent – fragile, conflict-affected, war-torn, corrupt – appear to be what is keeping citizens disillusioned. One act of hope and the entire continent lights up!*

But now, recognising that Kenya remains a divided society, Paul sees that civil society must put internal differences to one side and play a positive role:

*It is impossible to have democracy without a proper social contract. Democracy is about managing diversity within society to deliver on collective aspirations using the resources at the disposal of society. Instead we have made democracy about power plays and about the strongest or the richest or the largest ruling over everybody else. We must realise that unless we work with society to learn how to negotiate, manage its diversity and develop a culture of regular compromise, anything we do in the name of democracy is merely buying time.*

*Civil society needs to connect more with citizens and explain to them what the Supreme Court did. Never in the history of democracy anywhere in the world has the judiciary come out to teach society what constitutes democracy! If civil society can use this case to educate citizens on why the court opted to define elections as a process and not an event, they will have advanced democracy in ways they would never do with all the donor money used in governance programmes.*

*In a fractured and polarised society, civil society is not just about being on the right side or the legally correct path. It's about understanding the dynamics of society and taking positions that rebuild society. It is important that the two civil society camps, whether they see their positions as superior or not, come together and agree on how best to shepherd the nation and citizens at this time. Kenya is at a point where it does not need right or wrong, but truth.*

## SOUTH AFRICA: CIVIL SOCIETY SCORES ACCOUNTABILITY VICTORY

The quality of democracy also came under the spotlight in **South Africa** in September, when civil society secured an important legal victory. A CSO, **My Vote Counts**, won a court case to make political parties publicly reveal the source of their funds. **Elizabeth Biney** from My Vote Counts discusses why this issue matters:

*My Vote Counts believes that access to the private funding information of political parties is important and reasonably required for the effective exercise of political rights enshrined in the South African Constitution – the right to vote and make political choices. Political parties in South Africa occupy a unique and influential role in our constitutional democracy. Under our current electoral system, political parties determine which people become members of the legislature and national and provincial executives. These people then go on to shape public policies and laws. Given their pivotal role in the democratic functioning of South Africa, we cannot disassociate their activities from their funding sources.*

*There is also the argument for advocating for the disclosure of private funding information as a deterrent to corrupt activities. Transparency in the funding of political parties is good for our democracy, broadly speaking. Mandatory disclosures of private funding allow us to detect and prevent possible cases of corruption and control the influence of money in our politics. A political party may take a particular policy position in order to satisfy the expectations of substantial donors, at the expense of the majority*

*that voted for it in an election. Secret funding of political parties creates the scope for and facilitates corruption.*

*Having ratified three anti-corruption international agreements, including the UN Convention against Corruption, the South African government already acknowledges the relationship between political donations and corruption. The obvious next step is to put appropriate preventative mechanisms in place to guard against political corruption. One such measure is to have legislation or regulation that compels parties to disclose their private funding information publicly and proactively.*

While the court victory was an important step forward, Elizabeth points out that there is a broader picture of civil society constructive engagement and lobbying it fits into:

*The judgment will be referred to the Constitutional Court for confirmation. In the meantime, we continue lobbying for legislative reform. The judgment was handed down after a parliamentary process had been initiated to review the current political financing landscape, with the intention of reforming it. So, there is now a parliamentary Ad Hoc Committee on the Funding of Political Parties investigating the challenges in our party financing regime. We have been engaging with it on critical issues and monitoring the process. The Committee has produced a draft political party Bill and is accepting public comments on it. We are in the process of making submissions with the hope of improving it to meet international best practices and constitutional standards.*

With South Africa rocked by political corruption scandals and considerable disaffection on issues such as inadequate public services, highly visible inequality and lack of political choice, there remains a need to consider the larger questions of the state of democracy in South Africa, and the role of civil society in enabling people's participation, accountability and democratic dissent. We asked Elizabeth for her personal view on the current health of South Africa's democracy:

*Personally, I think our democracy is under threat. The level of political impunity and sheer disregard for ethics and good governance, both politically and administratively, is alarming. You only need to track the number of issues on which civil society has taken the government and parliament to court to see that the protection of South Africans and our liberties are in the hands of civil society and the media.*

SOUTH AFRICA HAS A VIBRANT CIVIL SOCIETY CONSTANTLY FIGHTING FOR CHANGE, AND WE WILL NEED TO WORK TOGETHER FOR THE BROADER CONSTITUTIONAL GOAL OF A FREE AND DEMOCRATIC SOCIETY



*Despite the slippery slope that we find ourselves on, South Africa's democracy will not fail just yet. We have a constitutional democracy, which means that despite political and administrative attempts to circumvent our democratic rights, the constitution is paramount, and the role of the judiciary in this regard cannot be underestimated. South Africa has a vibrant civil society constantly fighting for change, and we will need to work together for the broader constitutional goal of a free and democratic society.*

Indeed, South Africa's tradition of democratic dissent is such that the country is often described as the protest capital of the world. It continued to earn that mantle in 2017 with many protests against the ruling party and President Jacob Zuma, who finally stood down in February 2018, fuelled by ongoing exposure of his links to the wealthy Gupta family, along with numerous, often **local-level** protests demanding adequate basic services.

In August, President Zuma survived his fourth parliamentary no-confidence vote, an event marked by **demonstrations** in numerous locations around the country. Thousands marched in Cape Town, seat of South Africa's parliament, in an event organised by the #UniteBehind coalition of CSOs, activists and faith leaders, which campaigns for a more equal society and against corruption. Similar protests took place in the major cities of Durban, Pretoria and Johannesburg, where there were **reports** of teargas and rubber bullets being used against protesters.

Predictably journalists found themselves under attack, particularly when they worked to expose high-level corruption. Several attacks came from the Black First Land First (BLF) movement, which was revealed to have **close links** to the Gupta family in email leaks published by the **Gupta Leaks** investigative consortium. Two Business Day **journalists** were assaulted by BLF members in June, and the following month, BLF members **violently disrupted** a discussion on the Gupta family's political links.

In the midst of such polarisation and contestation, civil society has an essential part to play. As Elizabeth concludes, civil society must keep up its accountability role, even in difficult conditions, as a key component of democracy:

*We are constantly asking the difficult questions that the citizen may be too scared to ask. We are demanding accountability of our leaders and private businesses. Although government is trying to close down the dissenting spaces that we operate in, we are putting up a fight. Our democracy can only flourish if there are oversight bodies like civil society. You cannot underplay the significant role that public watchdogs play in ensuring accountability, fairness and transparency in democratic governance.*

## UGANDA: POLICE RAIDS ON CIVIL SOCIETY POINT TO BROADER GOVERNANCE FAILURES

On 20 September, over 20 **Ugandan** police and state security officials **stormed** ActionAid Uganda's head office in the capital, Kampala. Around 25 staff members were prevented from leaving as the police searched the premises, went through documents and confiscated phones and laptops. It was the first of a series of raids. That same day, the offices of the Great Lakes Institute for Strategic Studies (GLISS) were raided and cordoned off by police officers. The next day, the offices of Solidarity Uganda in the northern city of Lira were raided, and the raids **continued** into October, when it was the turn of the Uhuru Institute for Social Development to be targeted, with staff phones and computers confiscated.

The pressure continued in October, as ActionAid, GLISS and the Uhuru Institute were placed under police investigation, their bank accounts, including personal accounts of directors, were **frozen**, and they were ordered by the NGO Bureau to submit bank statements for the past decade. The police claimed they were investigating **allegations** of money laundering. Accounts were frozen until 25 December.

The raids came during a time when Uganda's ruling regime was particularly sensitive to criticism because of an attempt to rewrite the constitution to enable the president to stay in office. In September, a Private Members' Bill was introduced by a ruling party parliamentarian to remove age restrictions on the presidency. The bill **became law** in January 2018. Incumbent President Yoweri Museveni, who would have been disqualified under the constitution, can now run for additional terms in office. This was the second constitutional amendment enabling President Museveni to stay in power; in 2005, the constitution was rewritten to allow him to run beyond the two-term limit. In a tacit acknowledgement that the proposal was controversial and unpopular, state agencies moved to suppress people's ability to say how they felt about the idea of President Museveni's continued reign. CSOs engaged in work to promote accountability, good governance and human rights were therefore targeted for restriction.

**Fred Sekindi** of the **Foundation for Human Rights Initiative** sees the raids as another sign of the narrowing of democracy in Uganda:

*In the past few years, the incumbent government has demonstrated its resolve to hold onto power at all cost. In this quest, ideals of democracy have increasingly been under threat. President Museveni has been in power for over 30 years and has been declared triumphant in the six presidential elections conducted since the 1995 Constitution was promulgated, amidst widespread discontent with electoral laws. Elections by themselves are not a symbol of democracy, particularly if electoral laws are not able to translate the will of the people into true democratic choice.*

*The very unpopular **proposal** to amend the 1995 Constitution to remove age restrictions on the presidency, and the brutal force employed by state security forces against dissenters, illustrate the state of democratic decay of Uganda... The police raids were part of its campaign to clamp down on CSOs that, in their opinion, were working against the removal of the age limit. It is CSOs that criticised the proposal to amend the Constitution that had their **accounts frozen**, and some were threatened with closure.*

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A suite of recently-passed laws enabled the government's crackdown, Fred continues:

*The government resorted to draconian laws such as the 2013 **Public Order Management Act**, which prohibits public gatherings without the approval of the Inspector General of Police, to prevent public gatherings and demonstrations against the proposed constitutional amendments.*

*The police continued to use the Police Act and the Public Order Management Act to stifle the freedoms of peaceful assembly, expression and association, and to arrest and detain people unlawfully. The Police Act authorises the use of 'preventive detention' for the protection of the detainee and to stave off the spread of communicable disease. This power has been misused to arrest human rights activists and political opponents arbitrarily and to prevent political activities and demonstrations taking place.*

*In turn, the Public Order Management Act requires the organiser of a public procession to submit a 'notice of intention to carry out a public meeting' to the police. Spontaneous meetings are exempted from the notice. However, the police repeatedly **dispersed** spontaneous meetings, prevented meetings arranged by opposition parties, CSOs and political activists, and arrested demonstrators.*

*The **controversial** 2016 Non-Government Organisations Act has increased government supervision and control over CSOs. The Act creates an obligation for CSOs not to engage in any act that is prejudicial to the security and laws of Uganda and not in the interest of Ugandans. It further establishes an NGO Bureau with powers to revoke the licences of offending CSOs. Any CSO that engages in such loosely defined acts is liable to deregistration. The Non-Government Organisations Act further restricts civic space for CSOs working*

*in the areas of democracy, good governance, anti-corruption and transparency.*

*In sum, the government continued to employ bully tactics to harass dissenters. CSOs, opposition political activists and journalists were the main victims of these attacks.*

Numerous examples were seen of harassment of opposition figures around the time of parliamentary debates on the age limit proposal in September. The first scheduled debate, on 21 September, was postponed following angry exchanges after parliament was surrounded by heavily-armed state security forces. The rescheduled **debate**, on 26 September, was also postponed as a heated discussion turned into a brawl. The following day, 25 opposition members of parliament were forcibly removed from parliament and suspended. Three of this group went on to have their homes **attacked** with suspected grenades in September and October. The Mayor of Kampala, **Erias Lukwago**, was arrested in September ahead of a planned march against the change, while members of the opposition Forum for Democratic Change party were prevented from marching to parliament in protest.

Members of the public were targeted too. Protests about the age-limit amendment were banned on 21 September, when the parliamentary debate was due to begin. When students at Makerere University in Kampala went ahead with a protest, they were attacked with teargas and rubber bullets, and five students were reported **arrested**. In October, an opposition **rally** on the age limit proposal in the town of Rukunguri was dispersed with live ammunition and teargas, resulting in at least one death, and the same month in Lwengo District, ruling party supporters **assaulted** age-limit protesters and marched them to the police station, where they were detained. 2017 threw up a litany of arrests and detentions of those opposing the change: protests in **July** saw two people **arrested** for allegedly burning t-shirts with the president's image on them; **56 people**, most of them opposition party members, were arrested on charges of holding unlawful assemblies; and three people were



**detained** for holding a mock funeral for President Museveni. The attack on rights was sustained: in December, 16 youth activists were **arrested** and held for campaigning against the change; one of them, **Arinaitwe Scovia**, was hospitalised after being beaten during detention.

The state's determination to suppress dissent about the proposal also caused attacks on the media. Five journalists were **arrested** and detained in Kampala in September for covering a press conference by young activists on the issue, and that same month police assaulted two journalists who were covering an opposition age-limit protest in Entebbe, taking their equipment. Four journalists were **arrested** for covering protests on 26 September. In October, editors from two newspapers were summoned for **interrogation** after reporting on the age limit issue, and the Uganda Communications Commission (UCC) ordered a temporary **shutdown** of a radio station after it featured a prominent opposition leader on its programmes. In November, the offices of an independent media house, Red Pepper, were **raided**, and eight people arrested and held for nearly a month after publishing a **story** alleging that President Museveni planned to overthrow the government of Rwanda. Singer David Mugema and producer John Muwanguzi were **arrested** in December, accused of recording and sharing a song called 'Wumula' ('Retire').

The UCC proved itself to be a state agency active in stifling debate. In September the UCC issued a public notice warning people about "irresponsible" social media use and the sharing of offensive and illegal content. Following the rowdy scenes in parliament, it issued a statement warning radio and TV stations against broadcasting content that "promotes a culture of violence among the public." Earlier, in July, the Inspector General of Police had **warned** that opposition figures should not hold debates on the age-limit proposal, showing contempt for democracy by stating that debate should only take place in parliament. Social media users debating the age limit received **online threats**, and the government was **reported** to be working with a Chinese state corporation on a new cyber security strategy, an ominous prospect given the Chinese state's leading expertise in suppressing and criminalising online

dissent. The year also saw a continuing assault on LGBTI rights in Uganda, with a week of planned gay pride events **banned** for the second successive year in Kampala, and police sent to stop anyone participating.

The strain civil society was placed under, Fred suggests, results from an irony: as the government became less accountable, less responsive to people's needs and more concerned with perpetuating its rule, people turned to civil society, making the state suspicious of civil society's profile and public trust:

*As a result of the government's failure to ensure the fundamental rights of the people, CSOs stepped in to fill this gap. The increasing popularity of CSOs among the populace, more so in a time of political upheaval when Ugandans need a sense of direction and strong leadership, lays a fertile ground for antagonism between the government on one hand, and CSOs and the citizenry on the other.*

But the many attacks are having perceptible impact on civil society, Fred relates:

*The police raids have a two-pronged effect on CSOs: on one hand, the police seek to deter organisations from carrying out any activities that could prevent the incumbent president from achieving his ambition of a life presidency, by portraying them as working against the 'public interest' or the 'security of the state'; on the other, the raids aim to tarnish CSOs' reputations and dissuade their donors from continuing to support their work financially.*

*CSOs are operating in a very uncertain environment. To continue working in this hostile environment, some CSOs have resorted to self-censorship in order to avoid deregistration. This, however, poses the risk of these CSOs becoming irrelevant, if they are not engaging with the issues that concern the citizenry the most. The other challenge is that, in an environment in which the observance of fundamental*

*freedoms is increasingly neglected by the government, restrictions imposed on the exercise of fundamental rights are likely to carry on unabated.*

The specific issue of the presidential age limit therefore shed light on the general and ongoing challenges for civil society in Uganda, when civil society seeks to encourage debate, exercise accountability and demand rights, as Fred indicates:

*CSOs working in the area of service delivery continue to operate without any notable hindrances from the government, while those working on land rights, democracy, governance, anti-corruption and transparency continue to face an uphill task... CSOs, especially those engaged in the fields of democracy and governance, are perceived by the government as political and partisan, and as agents of western governments, since their roles include monitoring government policies and actions and holding government officials accountable to the public.*

Civil society responded to defend itself. Following the GLISS raid, a group of 22 CSOs **gathered** outside their offices in solidarity and asserted their support for the constitution. In November Chapter Four Uganda, a human rights organisation, published a **guide** on the rights of CSO staff when targeted by a police raid and tactics for responding. Fred concludes by suggesting that international civil society can also offer support:

*Technical and financial support from international civil society to CSOs in Uganda will be crucial in steering Uganda towards democratic governance. International partners may also lobby the Ugandan government on issues of good governance and human rights as another method of exerting influence. International CSOs could also create a fund for protecting and evacuating human rights defenders in emergency cases.*

*Most importantly, international CSOs have a role in supporting local CSOs in their work to build civic competences among the citizenry as well as to safeguard fundamental rights. In times when the government's priority is the incumbent's survival in power, issues of good governance and observance of fundamental rights have been neglected. It is for CSOs to step in and fill this void. This task would be impossible to achieve without the support of international partners.*

## UNITED NATIONS: GROWING PRIVATE SECTOR INFLUENCE SPARKS CORPORATE CAPTURE CONCERNS

Civil society that participated in events at the UN General Assembly in New York in September could hardly fail to notice the private sector's major presence. There were **over 30** business-oriented events at the General Assembly, including for the first time an exclusive CEO Roundtable, in which 20 CEOs took part in a conversation with UN Deputy Secretary-General Amina Mohammed, an invitation-only Private Sector Forum hosted by the UN Secretary-General and attended by heads of state, and the UN Global Compact Leaders Summit.

While there are unquestionable examples of private sector actions that have benefited civil society – as set out in the **2017 State of Civil Society Report**, which focused on the theme of the private sector – the private sector's growing involvement in global governance also sparks civil society concerns. For civil society, questions include those of whether the private sector has privileged access beyond that offered to civil society, and whether the quality of the space for civil society is degraded as a consequence; what the private sector's involvement means for accountability and the transparency of



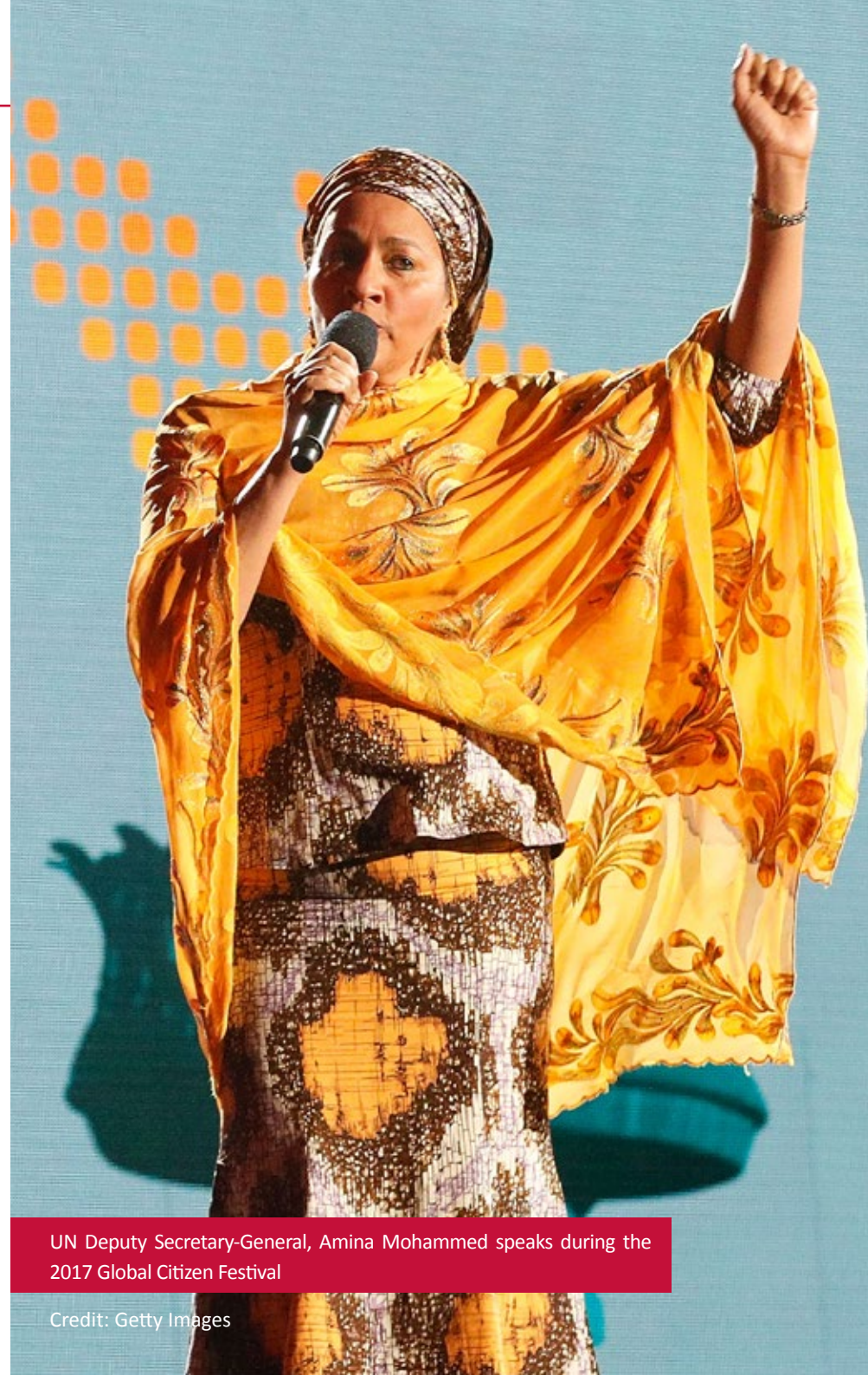
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decision-making; and to what extent progressive and rights-based agendas can be pursued, including those that challenge the impacts of businesses on human rights, or whether agendas will skew towards the interests of business.

The increasing role of the private sector in UN institutions, indicated by the plethora of meetings around the General Assembly, is partly motivated by financial pressure, with cuts from states in UN funding (*see December*) driving a need to secure resources elsewhere. But it also partly represents an embrace by UN institutions of private partnerships as a desirable form of delivery of priorities. **Thea Gelbspan** of **ESCR-Net** discusses how closer relationships with the private sector have resulted from the drive to advance the SDGs, and the civil society concerns they have provoked:

*All UN agencies and offices are subject to frameworks that the UN system adopts and operates under, including **SDG 17** on revitalising the global partnership for sustainable development. The goal clearly states that the “sustainable development agenda requires partnerships between governments, the private sector and civil society.” It cites an urgent need for action to “unlock the transformative power of trillions of dollars of private resources.” Through SDG 17, the UN system has, regrettably, enshrined a mandate for its various agencies and operations to explore partnerships with companies and private investors.*

*In the face of these developments, ESCR-Net members have expressed growing concern about what they have termed the **corporate capture** of UN processes and institutions. Corporate capture refers to the means by which an economic elite undermines the realisation of our human rights and our environment by exerting undue influence over decision-makers and public institutions. Softening regulations, weakening regulatory powers, bankrolling elections, utilising state security services against local communities, causing judicial interference and implementing revolving-door employment practices*



UN Deputy Secretary-General, Amina Mohammed speaks during the 2017 Global Citizen Festival

Credit: Getty Images



are just some of the instances of corporate capture that ESCR-Net members have tracked.

We are concerned that even the most progressive UN agencies and offices have become vulnerable to the threat of corporate capture. For example, on 16 May the UN Office of the High Commissioner for Human Rights (OHCHR) announced a new five-year partnership with Microsoft, consisting of a US\$5 million grant, plus a commitment of pro bono assistance. Members of ESCR-Net's Corporate Accountability Working Group (CAWG) **raised concern** about the actual or perceived effect that this partnership will have on the OHCHR's independence.

We have witnessed a series of attacks on human rights defenders who confront human rights abuses that derive from private sector activity... Unfortunately, as the UN system has forged more and more partnerships with private sector interests, the ability of its human rights mechanisms to uphold universally recognised standards effectively with actors who do not believe that such standards apply to them could be compromised, as could the system's ability to provide protection for human rights defenders at risk.

In response, Thea sets out some of the actions that can be taken, and that her network has offered:

*A challenge of this magnitude truly requires collective efforts – across borders and regions – to confront these trends and elevate alternative approaches to advancing sustainable development that promote an environment friendly to human rights and those who defend those rights.*

*The CAWG was central to the advocacy that led to the UNHRC's creation of an **Open-Ended Intergovernmental Working Group on***

*Transnational Corporations and Other Business Enterprises to begin drafting a binding treaty on transnational corporations and human rights (see October). As part of this work, CAWG participants repeatedly raised the issue of corporate capture, as well as the possibility of using the UN process, and the international attention it attracts, to confront this trend at the national level. Now, as the negotiations have progressed, ESCR-Net members are calling attention to the risk of corporate capture of the treaty process itself and advocating for clear lines to be respected in terms of private sector participation.*

*This is not the first time the UN system has grappled with the threat of undue influence that corporations or industry sectors may exert over treaties or bodies that are supposed to regulate corporate practices. Precedents exist. The WHO's Framework Convention on Tobacco Control contains an explicit recognition that establishes the tobacco industry's irreconcilable conflict of interest in public health matters. We can insist on clear lines that keep private sector interests out of spaces that are not appropriate for their participation.*

*In any accord, human rights are clear, universally accepted and non-negotiable standards that imply clear obligations for states and, progressively, responsibilities for non-state actors including those from the private sector. Human rights transcend the UN system and the purview of law, being derived, essentially, from long legacies of struggles by social movements and communities for a life of dignity. We must stand together to support these values we share, in the face of ongoing efforts to turn public affairs over to market forces.*