

UNDER ATTACK BUT FIGHTING BACK

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- *Human rights defenders and civic space* •

ABSTRACT

2019 was a year of collective action, and although the repression of civic space activism continues to rise, human rights defenders, activists, and civil society continue to operate, adapt, and resist. There are many success stories of human rights defenders who continue their work despite mounting restrictions, and it is important to recognise, celebrate, and learn from those stories and to work to bring these narratives to the surface of public attention to inspire us all. This article will look at a few cases of valuable achievements resulting from defenders' work. In addition, the article will provide an overview of key restrictions and trends and what they can tell us about how civic space affects human rights defenders around the world and particularly in the Americas through the lens of the data collected over the course of 2019 by the CIVICUS Monitor.

KEYWORDS

Civic space | Human rights defenders | Restrictions | CIVICUS Monitor

1 • Introduction: human rights defenders continue to operate with increasing challenges

Human rights defenders are working to create a more just and equal world, and their role has never been more crucial in driving change. Over the past nine years, CIVICUS has published the State of Civil Society Report,¹ tracking civil society action on the key issues of the day and the major trends that impact on civil society. In the latest report, CIVICUS shows how “civic action achieved significant impacts in securing progressive change, advancing demands for civic rights and democratic freedoms, fairer economic policies, an end to inequality, action on the climate crisis and international reform.”

Without doubt, advocacy, activism and protests from civil society have pushed issues, such as the climate crisis, into headlines around the world. Civil society’s classic role of speaking truth to power has never been so vital:

Beyond the coverage of Greta Thunberg, there were many other young activists of all backgrounds and from all over the world who took up the reins and became climate leaders. The call to action found a receptive audience among the young people who will live with the full consequences of climate change.²

Recognising the vital work of human rights defenders, and after more than 13 years of negotiations, the UN General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders).³ The Declaration was an important development for the recognition and protection of the work of human rights defenders.

More than 20 years have passed since the Declaration was adopted and many would probably expect the world to be a more hospitable place for human rights defenders and activists today. However, in recent years, we have witnessed a global backlash against civil society, an increase in political extremism, the rise of far-right groups and a deteriorating environment for human rights defenders to operate in.⁴

The decline of civic space influences the ability of human rights defenders to operate. The freedoms of association, peaceful assembly and expression – the three civic space rights – underpin the work of defenders: to influence decisions and fight for rights, people must be able to participate in society, communicate their views, denounce abuses, organise and mobilise.

The importance of a safe and enabling environment for defenders was noted in 2014 by the former UN Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, who said, “Defenders should be able to carry out their activities in an environment that empowers them to defend all human rights for all.”⁵ Far from meeting

that goal, the Special Rapporteur “has seen the space for civil society and defenders visibly shrink in certain regions of the world.”⁶

Within this context, CIVICUS and its partners⁷ launched the CIVICUS Monitor.⁸ The CIVICUS Monitor analyses the extent to which the three civic space rights are being respected and upheld in 196 countries across the world and the degree to which states are fulfilling their role in protecting these fundamental freedoms. Based on qualitative and quantitative data on civil society conditions, each country is placed in one of five categories: open, narrowed, obstructed, repressed and closed.⁹

Data from the CIVICUS Monitor clearly shows that every year, fewer people are living in countries where civic freedoms are respected. The 2019 edition of *People Power Under Attack*¹⁰ – the annual report that summarises key civic space trends found in data collected by the CIVICUS Monitor – shows that now, only three percent of the world’s population live in countries rated as open. This means that in only 43 countries, people are able to exercise their rights without major challenges, although as we will see in the analysis below, civic space violations still occur in countries rated as open.

The decline of civic space in India and Nigeria means that 40% of the world’s population now live in repressed countries. Last year, this figure was 19%, thus providing further evidence that the environment for human rights defenders is neither safe nor enabling.

In the following section, we will look at key restrictions and trends and what they can tell us about how civic space affects human rights defenders around the world and particularly in the Americas.

But it is also important to highlight that human rights defenders continue to work in the face of restrictions. We have been documenting restrictions and challenges to activism, but also new forms of activism and solidarity in response, as well as how more people are taking to the streets to demand change. Often, this has yielded positive results and that is where we would like the story to end. We will thus also present the positive developments that show the tireless work of defenders who continue to push for change.

2 • Context matters: tactics used by state and non-state actors to restrict the work of defenders

As of July 2020, the CIVICUS Monitor rated 43 countries as open, 42 as narrowed, 49 as obstructed, 38 as repressed and 24 as closed. This apparently even distribution masks a worrying fact: most of the world’s population live in countries where fundamental rights and democratic freedoms are severely restricted. In the latest *People Power Under Attack* report, we found that approximately 67% of people live in countries where civic space has been rated closed or repressed. In practice, this means that most people live in environments where it is extremely difficult to denounce abuses, access justice and claim unfulfilled rights.

Censorship

In 2019, information from the Monitor indicated states' growing intolerance of dissent and of those who dare to speak truth to power or to defend the rights of their communities. Censorship was the restriction that we documented most frequently, appearing in 33% of our reports; it was the one restriction that featured in the top five violations in every rating category.

Where civic space is repressed or closed, censorship was by far the most common tactic used by states to control dissent. It was often blatant, with materials being seized, broadcasting channels taken off air and selective restriction of internet access, among other tactics. In Nicolás Maduro's Venezuela, activists, artists and journalists alike are vulnerable to arbitrary and brazen restrictions. For instance, in August 2019, the National Telecommunications Commission (CONATEL) ordered a television station to take an interview and opinion programme off the air without explanation.¹¹ Journalist Jorge Ramos was detained and his equipment was confiscated in the middle of an interview¹² with President Maduro, after he asked questions about reported human rights abuses.

Regardless of where they live, rights defenders and journalists are exposed to censorship practices. This was also the most common restriction documented by the Monitor in countries in the narrowed category, particularly for those in Central Asia and Europe. Where civic space is less restricted, censorship has usually taken the form of strict regulations, political pressure on media or defamation charges against journalists and defenders. In the Americas, there is no shortage of cases of clear attempts at censorship, as in Brazil, when a governor attempted to ban a comic featuring a same-sex kiss from a book fair,¹³ or more subtle ones, as in the USA, where journalists have been denied press passes based on their past work.¹⁴

Harassment

Rosalina Domínguez, a land and environment defender from Honduras, was returning home with her children in July 2019 when she was ambushed by men with machetes who told her, "from here you will not pass."¹⁵ Days earlier, the crops of her community had been intentionally burned, and in April, she had been threatened by at least seven assailants, one of whom was armed. Defenders in her community, Río Blanco, have presented dozens of complaints to the authorities since 2016 but little has been done. Rosalina and the people of Río Blanco have fiercely opposed the construction of a hydro-dam by the energy company DESA, whose executives ordered the killing of Berta Cáceres in 2016.¹⁶ This is only one case among hundreds that the Monitor has documented and followed, where activists, journalists and organisations have been repeatedly targeted by state or non-state actors. Harassment appears among the top violations in countries where civic space is more restricted – that is, those in the closed, repressed and obstructed categories.

There are small but important differences in how harassment is encountered in different civic space environments. In countries rated as obstructed, harassment from non-state actors

often takes the shape of smear campaigns, particularly through online platforms.¹⁷ When states take the lead, they often use judicial harassment that aims to drain financial resources and energy by leading defenders into long and costly lawsuits on trumped-up charges.¹⁸ In comparison, in countries where civic space is repressed, we have registered more systematic harassment that often involves physical attacks. In the Americas, the groups most targeted are often context-specific: journalists in Mexico, environmental and indigenous defenders in Honduras and political dissidents in Nicaragua.

As harassment involves the use of a broad toolbox of tactics, it is difficult to track and define. Perhaps states are increasingly using it as a strategy to bypass monitoring organisations. This is the case in Nicaragua, where international and local pressure led the government to free hundreds of political dissidents in 2019 and 2020.¹⁹ Yet, outside jail cells, former political prisoners have often found their houses besieged and vandalised, their family members threatened and their freedom in danger due to the risk of rearrest under false charges.²⁰

Pushback on protests

CIVICUS Monitor data shows that there is a global pushback against the millions of people who take to the streets in protest. In our latest *People Power Under Attack* report, we documented 96 countries where the right to peaceful assembly was restricted between October 2019 and November 2019.

In the Americas, some of the most stunning crackdowns of 2019 were seen in countries where protesters might have had good reason to believe it was safe to mobilise: in Chile, Ecuador and the USA, all of which are rated as narrowed by the CIVICUS Monitor. The arrests of Wet'suwet'en defenders demonstrating against natural gas pipelines in Canadian First Nation territory further underscores the important point that some groups experience civic space restrictions on protests very differently from others.²¹

Restrictive laws

Legal measures that restrict one or more of the three civic space freedoms have been proposed or enacted in over 80 countries since 2013.²² This long trend continued in 2019, appearing among the main types of restrictions in countries rated as having obstructed, narrowed and open civic space. Freedoms of peaceful assembly and expression were key targets of restrictive legislative proposals, including in the Americas and often in countries where these rights were considered enshrined. Rather than challenge the right to protest outright, the authorities in countries in these categories tend to contest the spaces where people come together to protest, whether it be a college campus or a key avenue, and the legitimacy of tactics such as road blockages and civil disobedience.

In the USA, several state legislatures approved laws that restrict protests around so-called “critical infrastructure”. In Ohio, a bill increasing penalties for peaceful protests and civil

disobedience at pipelines and other sites imposed penalties of up to 10 years in prison and \$20,000 fines.²³ Meanwhile, a bill in Costa Rica would severely restrict protest and association rights by prohibiting strikes against public policies and banning workers in education, health and other sectors from all strikes. This legislation was proposed following an intersectoral strike against economic cutbacks in 2018, and it targets some of the key groups that mobilised to resist the changes.²⁴

Two states where civic space was already more constrained, Brazil and Guatemala, have made major moves to place broad restrictions on civil society. In Guatemala, human rights organisations have warned against repeated attempts to change the country's NGO Law. A decree amending this law was approved in Congress in early 2020, imposing sweeping controls and harsh sanctions on civil society organisations.²⁵

3 • Resistance

It is clear that the operating environment for human rights defenders is in decline and that state and non-state actors continue to implement restrictions to prevent human rights defenders from doing their work. There are good reasons to track these restrictions in order to identify common trends, put the spotlight on rapidly worsening situations and build strategies to counter them. Yet a focus on restrictions should not overlook the continued resistance and fightback by human rights defenders.

It is important to highlight positive stories, success stories and the sometimes hidden work of human rights defenders. For this reason, our monitoring also describes improvements in civic space conditions. In 2019, the CIVICUS Monitor documented many instances where progress has come in civic space and human rights defenders have won battles, often after years of work challenging policies, building movements and shining a light on abuses. In this section, we look at a few cases of valuable achievements resulting from defenders' work.

In Belize, in 2010, activist Caleb Orozco started litigation to decriminalise consensual sexual relations between same-sex adults, punishable under section 53 of the Criminal Code by up to 10 years in prison. During the court case, Caleb received death threats and suffered physical attacks as a result of his advocacy in support of the LGBTQI+ community. After six years, in 2016, the Supreme Court of Belize declared section 53 unconstitutional, stating that criminalising consensual sexual relations between adults of the same sex violates the rights to human dignity, privacy, freedom of expression, non-discrimination and equality before the law.²⁶

In Guatemala, indigenous Maya Q'eqchi leader Abelino Chub Caal was having lunch with his family when the police arrested him on February 4, 2017. He was accused of aggravated land grabbing, arson, coercion, illicit association and belonging to illegal armed groups – all connected to an incident in which he was not even present. Abelino had become a nuisance to agribusiness interests and he was criminalised because of

his relentless defence of indigenous land rights. This was far from an isolated case in Guatemala or in the region, but civil society solidarity ensured it had a positive outcome. Abelino wrote letters addressed to the public and to relevant politicians from prison while community-based organisations joined with international organisations to create a large-scale campaign combining petitions, social media and international pressure. His lawyers fought to show that the case lacked an evidence base and 812 days after he was arrested, the defender was acquitted of all charges. “I will carry on uncovering all the problems affecting the communities. Like other land and environmental defenders, I don’t work for myself, but to protect the rights of communities that have been abandoned by the state,” he said after his release, showing that his fight is far from over.²⁷

In Venezuela, often in news stories on state repression, media censorship and attacks on human rights defenders, there are many stories of remarkable acts of conviction and resistance, of people building support networks in the face of limited and often polarised international support. Luis Carlos Diaz, a journalist and digital rights activist, was arrested and detained by the authorities in March 2019. Hours after his wife reported him missing, officers of the Bolivarian Intelligence Service (Sebin) brought him to his apartment in handcuffs at 2.30 am. Then, he was taken to the ‘Helicoide’ political prison.²⁸

Using the hashtag #LiberenaLuisCarlos (#FreeLuisCarlos), tens of thousands of online followers demanded his release and urged international and national organisations to join the campaign. On the streets, people gathered in front of the prosecutor’s office building in Caracas to denounce his arbitrary detention.²⁹ In an unprecedented turn of events, Luis Carlos was released approximately 24 hours later. His first words after his release celebrated and reinforced the “power of networks” as the cause for his freedom.³⁰

By the end of 2019, the first year of Jair Bolsonaro’s mandate, local civil society had already registered at least 60 different actions taken by the government to constrain democratic practices in Brazil. They are part of a multi-pronged strategy encompassing smear campaigns, public vilification of activists and journalists, criminalisation, dismantling of civil society councils and proposed legislation to enable state oversight of activist work and constrain people’s right to access information.³¹ In response, civil society has built on years of litigation work to challenge policies in court, exposed setbacks to fundamental rights in international forums and managed to capture global attention on issues such as rising deforestation, pushing the government to act.³² Despite the increasingly repressive environment, a coalition of 160 organisations gathered signatures from over 500,000 people in a campaign for an emergency basic income during the Covid-19 pandemic, leading to the adoption of this policy within less than a month.³³

After six years of negotiations, on March 18, 2018, states in Latin America and the Caribbean signed their first environmental human rights treaty.³⁴ The text has a specific provision on environmental human rights defenders that is unprecedented for the region and enshrines a rights-based approach toward indigenous peoples and vulnerable populations,

with provisions to favour these groups' access to information, participation and access to justice. The agreement was influenced by several years of civil society engagement. Over 2,000 organisations followed the process from its inception, taking advantage of an unprecedented chance to sit at the negotiating table to provide substantive policy proposals and influence diplomatic delegates. In particular, the work of civil society was key to ensuring recognition of the region's history of violence against people who defend land rights and the environment.³⁵

The work of civil society made a huge difference. The issue of human rights defenders was a civil society proposal that was not present in the first version of the agreement. This has undoubtedly been the greatest achievement and a historic milestone for environmental democracy, because no other international treaty has provisions for the protection of human rights defenders,

said Aída Gamboa from Derecho, Ambiente y Recursos Naturales, Peru. As the agreement went into its next phase, activists continued to advocate and campaign for its ratification and implementation.

4 • Looking forward

As the repression of peaceful activism continues, there is a need to recognise, celebrate and learn from the many success stories of human rights defenders and to work to bring these narratives to the surface of public attention to inspire all of us.³⁶ As part of this, it is important to say that while historically excluded groups continue to be the target of repression, their stories are not all negative; in some cases, important advances in winning legal recognition for LGBTQI+ identities and relations have been achieved.³⁷

Undeterred by restrictions, human rights defenders, activists and civil society continue to operate, adapt and resist, against all odds, and come out as winners. 2019 was a year of collective action, when many activists and citizens took to the streets to demand and reclaim their rights. In many cases, protests made impacts, as the actions that triggered the mobilisations were quickly reversed.³⁸

Chile was one of many countries where mass protests generated impact. A sign in a protest in Chile read “Los Ideales son a prueba de balas” (ideals are bulletproof) – a powerful message that encapsulated why and how human rights defenders continue to move forward and fight back. There is a continuing need for civil society to act as a collective, to show solidarity and to speak out.³⁹

NOTES

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