



Against all odds

The perils of fighting for
natural resource justice



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About the authors

CIVICUS: World Alliance for Citizen

Participation is an international alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has a vision of a global community of active, engaged citizens committed to equity and justice. Our work focuses on monitoring civic space conditions, connecting civil society groups and amplifying marginalised voices, particularly in the global south. Spanning the whole spectrum of civil society, our alliance includes members and partners in more than 170 countries on all continents. For further information, see www.civicus.org.

Publish What You Pay (PWYP) is a global membership-based coalition of civil society organisations united in their call for an open and accountable extractive sector, so that oil, gas and mining revenues improve the lives of women, men and youth in resource-rich countries, and extraction is carried out in a responsible manner that benefits countries and their citizens. Our coalition is made up of more than 700 member organisations and 42 national coalitions across the world, including human rights, development, environmental and faith-based organisations. For more information, see www.publishwhatyoupay.org.

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Contents

1	Foreword
2	Executive summary
5	Introduction
6	Motivations for natural resource activism
7	Motivations for repression
11	The law as a tool against activism
11	Regulations that suffocate civil society
15	Tight control of public space
18	Criminalisation of activists
21	Extra-legal tactics against activism
21	Vilifying those who speak out
24	Unwarranted surveillance
26	Intimidation and violence
30	Conclusions and recommendations
31	Recommendations to governments
32	Recommendations to companies and investors
32	Recommendations to civil society
33	Abbreviations
34	References

Foreword

Many countries worldwide rely on the exploitation of natural resources as an important source of economic activity and public income. Yet when people in those countries legitimately want a say in the stewardship of their collective natural endowment, they often experience pushback from political and corporate entities seeking to defend their own interests.

In response, CIVICUS, the global civil society alliance, and the Publish What You Pay coalition have collaborated on this report to highlight the vital work being done by activists and their organisations for natural resource justice. In doing so, we want to acknowledge the courage and resilience of those who fight tirelessly for the equitable management of natural wealth. We want to make their stories known and create even stronger webs of solidarity.

This work comes at a price for activists, including members of CIVICUS and the PWYP movement. For many of them, harassment has become a constant companion. Authoritarian and corrupt elements in states and the private sector have attempted to silence those questioning the unscrupulous exploitation of natural resources. Their methods include arbitrary arrests, illegal surveillance, disproportionate fines, various forms of intimidation and threats, unjustified travel bans, unwarranted raids on offices and violent attacks.

This report shows that shrinking civic space is a reality in most, if not all, resource-rich countries, from Australia to the Democratic Republic of Congo, from Azerbaijan to Canada. As we write this foreword, the world's attention is focused on rights violations being committed against Native American communities opposing the construction of a pipeline through sacred land and a sensitive watershed in North Dakota, United States.

In shining the spotlight on the grave human rights violations taking place in some of the world's most remote locations, we believe this report can be useful to those engaged in struggles for justice and equity around the world. These include UN and regional special experts, multilateral institutions, development banks, academic institutions, the media, and civil society activists and organisations. We are seeking out allies in sympathetic governments and private sector entities willing to work with initiatives such as the Extractive Industries Transparency Initiative and the Open Government Partnership.

“ Authoritarian and corrupt elements in states and the private sector have attempted to silence those questioning the unscrupulous exploitation of natural resources.”

Together, we can create the momentum needed to repeal restrictive legislation and reverse repressive behaviour that quashes natural resource activism and prevents citizens from reaping the benefits of their natural endowment. We hope that our cooperation marks the beginning of greater unity of purpose to reverse negative civic space trends. Working together beyond silos of civil rights activism, anti-corruption initiatives, environmental sustainability, indigenous rights advocacy, land rights campaigning and gender justice, we are stronger and more resilient.

In solidarity,



Elisa Peter
Executive Director, Publish What You Pay



Dhananjayan Sriskandarajah
Secretary General of CIVICUS: World Alliance for Citizen Participation

Executive summary



Police officers storm the La Puya camp confronting protestors who are blocking the entrance to the El Tambor mine. After two years and two months of peacefully blocking the entrance to the El Tambor gold mine (Kappes, Cassidy & Associates (KCA) which is based in the USA). Residents of San Jose del Golfo and San Pedro Ayampuc were violently evicted by police forces in order to bring heavy machinery into the industrial site.

© James A Rodriguez/Panos

It is dangerous to raise questions about the governance of natural resources. To fight for fairer distribution of the benefits from a country's resource exploitation means encountering stark power imbalances. The space for those who defend community land, expose corruption and environmental degradation, and advocate for transparency and good governance is currently being squeezed by two converging global trends. Firstly, natural resource exploitation is intensifying, endangering already fragile ecosystems. Secondly, authoritarian values are on the rise, resulting in lower tolerance for pluralism and the contraction of political liberties. This is enabling the restriction of individual freedoms and collective rights. CIVICUS research reveals that serious violations of freedoms of association, expression and peaceful assembly – central to civic space – took place in at least 109 countries during 2015. The CIVICUS Monitor shows that 3.2 billion people now live in countries where civic space is either repressed or closed.¹

Avoiding their commitments under international law, governments worldwide are actively repressing natural resource activists and failing to protect them from persecution. Powerful corporate players are taking advantage of impunity, with unrestrained hostility towards activism.

For this report, CIVICUS and PWYP have collected stories from the ground to shed light on the growing pushback that activists on natural resource governance are experiencing daily. These stories highlight the variety of ways in which activists are prevented from scrutinising business and expressing their opposition to natural resource projects worldwide. They also reveal underlying patterns of repression.

With governments introducing new legislation or manipulating existing regulations to curtail activists' freedoms, the law has become a major tool to undermine legitimate activism. It is widely used by state and corporate players to suppress unwanted critical voices.

Three key trends emerge:

New laws that obstruct CSO registration, funding and activities

In the past few years, over 60 countries have passed or drafted legislation that narrows the space for CSOs to operate,² especially in sensitive fields such as land rights.

Legal amendments to allow more authoritarian policing of protests

Non-violent actions such as marches, occupations and roadblocks are being codified as crimes, with some states allowing security forces to use lethal tactics to control public space.

The criminalisation of legitimate activism through the judicial system

Common approaches include detaining activists on fabricated charges for weeks or months, releasing them as their cases are dismissed for lack of merit.

Extra-legal means of repression are also widely used. These include:

Public vilification

High-ranking public officials have run smear campaigns to undermine CSOs and activists, who are characterised as anti-national, anti-development, liars and even terrorists.

Unwarranted surveillance

Both state and non-state actors use surveillance for control and intimidation. Methods include informants, intercepting information or observation from a distance.

Threats and violence, including disappearance and murder

Global Witness reports that with 185 murders in 16 countries, 2015 was "the worst year on record for killings of land and environmental defenders".³ Culprits are rarely apprehended. Impunity for human rights abuses is not new, but it has recently become a major facilitator of physical harm to natural resource activists.

The consequences of these developments are being experienced across the spectrum of natural resource activism around the world. Indigenous and women human rights defenders are particularly vulnerable. Discriminated against in many contexts, indigenous peoples struggle greatly to uphold their rights in light of poorly defined communal land rights and weak and co-opted state institutions. Women activists face additional threats, including social rejection, sexual baiting and gender-based violence. Being most at risk, indigenous and women activists require special protection.

The struggles of natural resource activists must be made visible to all, so that society can take shared responsibility for their protection. By creating a strong movement of solidarity, PWYP and CIVICUS hope to spur the reversal of restrictive behaviours from state and corporate actors so that citizens can play an active role in the stewardship of their country's natural endowment. The protection and enforcement of human rights – including freedoms of association, peaceful assembly and expression – are primarily the responsibility of the state. Yet other public and private actors – corporations and international financial institutions, and CSOs – also have important roles. This report makes specific recommendations to each:

Recommendations to governments

Align domestic legislation with international law and best practice

Sign and implement treaties such as the International Covenant on Economic, Social and Cultural Rights. Promote domestic legislation that guarantees rights such as land tenure and access to information, and repeal restrictive regulation. Ensure law enforcement bodies and the judiciary are sufficiently resourced to operate effectively and independently.

Actively foster a strong civil society

Support multi-stakeholder initiatives such as EITI and the Open Government Partnership that encourage civil society participation. Endorse the Civic Charter as a framework for citizen participation, and acknowledge natural resource activists' work in the public interest.

Ensure companies respect human rights

Regulate to ensure that private actors abide by international human rights norms and allow affected communities to give or withhold free, prior and informed consent to projects. Encourage companies to implement the UN Guiding Principles on Business and Human Rights.

Demand that fellow governments protect human rights defenders

Prompt regional bodies to adopt similar mechanisms to those of the Inter-American Commission on Human Rights⁴, providing emergency protection to human rights defenders.

Recommendations to companies and investors

Abide by international human rights and environmental standards

Implement the UN Guiding Principles on Business and Human Rights, and other international and regional human rights standards (including due diligence checks on supply chains).

Nurture civil society participation

Disclose information related to natural resource projects, and support constructive dialogue with activists. Establish mechanisms to prevent and redress human rights abuses. Suspend projects without free, prior and informed consent by affected communities.

Recommendations to civil society

Hold governments and business to account

Raise awareness about international, regional and national environmental and human rights safeguards. Advocate for binding rules at all levels to strengthen business and investor compliance to international regulations. Promote participation in multi-stakeholder initiatives, such as EITI and OGP, and build local capacity to document repression.

Create strong, broad support networks for activists

Develop local and international support groups and rapid response mechanisms, including close relationships with journalists. Promote national solidarity platforms, bringing in other civil society groups to share best practices for dealing with shrinking civic space. Seek pro-bono legal advice and support from emergency funds such as LifeLine.⁵

Introduction

All over the world, projects involving the exploitation of natural resources spark strong reactions from local communities and wider populations. Such projects aim to put natural resources such as water, land, forestry and minerals to industrial or commercial use. They range from dam construction on the Honduran Gualcarque River to the building of a pipeline in the United States' Dakota lowland; from gold mining in Western Romania's Apuseni Mountains to pulpwood plantations in Indonesian Sumatra and oil drilling in the Caspian Sea.

Contention typically arises from perceived or expected adverse impacts on natural and social environments. Local populations most directly affected by natural resource projects – often indigenous communities with no formal property titles on the land – are rarely, if ever, consulted. Civil society actors – both those directly affected and others in solidarity – may mobilise in response to both the highly disruptive character of natural resource exploitation and the lack of consultation with affected communities. However, citizens, civil society organisations (CSOs) and members of local and indigenous communities who campaign publicly against harmful resource exploitation are increasingly under threat, in a sector long characterised by stark power imbalances. Although it has never been easy for civil society to expose corporate malpractice and advocate for transparency in state management of natural resources, activists around the world are currently attesting to backlash unprecedented in living memory.

Several compelling reports published in recent years highlight this upward trend in aggression against environmental campaigners and indigenous human rights defenders (HRDs). The trend also extends to activists struggling to establish a stronger and more democratic model of natural resource governance. These papers were the starting point for this report.⁶ They include work by Front Line Defenders, Global Witness, Article 19 and the International Center for Non Profit Law, along with the database of the Business and Human Rights Resource Centre, CIVICUS publications on civic space restrictions, and various reports by UN Special Rapporteurs. However, many of these reports are limited in scope, either having a regional, sub-regional or thematic focus or restricting their analysis to a certain type of aggression, such as killings.⁷

In response, CIVICUS and PWYP have joined forces to call for transparency and accountability in the extractive sector and highlight the full range of pushback currently being experienced by activists throughout the world. This report aims to offer a more comprehensive framework within which to understand how the phenomenon of shrinking civic space applies to natural resource exploitation. It reflects the experiences of PWYP and CIVICUS members and partners on the ground, and draws primarily from first-hand exchanges with civil society activists and leaders.



Citizens and civil society in Niger march for more transparency in the extractives sector.

© Rotab/PWYP Niger

CIVICUS is tracking ongoing threats to natural resource activists through its new CIVICUS Monitor platform, and will focus further on civic space for natural resource activists in its 2017 State of Civil Society Report. This will revolve around the theme of civil society and the private sector. For its part, PWYP will build on the findings of the present report to revise its Protection Policy to better shield its members from the ongoing wave of attacks, including by improving the documentation of abuses.

Both organisations believe that by making current repressive trends more visible, we will help develop a stronger global movement of solidarity. Accompanied by action, such solidarity will help challenge and reverse restrictive behaviour from state and corporate actors, so citizens can have a full say in their country's management of natural resources.

Motivations for natural resource activism

Natural resource activism does not inherently differ from other forms of activism. It uses evidence-based advocacy to achieve legal change, litigates to defend rights, mounts media campaigns to influence corporate or state actors, and employs direct action tactics (such as peaceful marches, roadblocks and nonviolent resistance) to achieve social change. Its distinctive element lies in the subject matter of its claims, which involve both renewable natural resources – such as land, forestry and water – and non-renewable, such as oil, gas and minerals. In this report, natural resource activism is used as an umbrella term to cover a wide variety of efforts by citizens, indigenous groups, local communities and CSOs focused on the exploitation of natural resources.

To understand why natural resource activism merits special attention in light of the growing challenges faced by citizen movements worldwide, there is need to understand the motivations underpinning natural resource activism. Empirical observation shows two broad categories:

Groups fundamentally opposed to any project that risks altering their livelihoods and ways of life

In these cases, resistance can be founded in religious or ancestral beliefs – for example, indigenous groups in Yaigoje Apaporis, in the Colombian Amazon, are fighting an attempt by the Canadian company Cosigo Resources to mine gold at a sacred site. Resistance can also be fuelled by the threat of major environmental destruction or displacement. In Western Romania, the community of Rosia Montana is trying to stop a mining project by another Canadian Company, Gabriel Resources, which would level four mountains, raze 900 homes, displace 2,000 subsistence farmers and produce millions of tons of cyanide-polluted waste.⁸ Concerns about climate change can also inform mobilisation against extractive projects, particularly those involving fossil fuels.⁹

Groups not intrinsically opposed to the intention to exploit natural resources

These are concerned about communities paying a high price while seeing little benefit. A great variety of motivations can underpin such activism. People living in a region affected by a project may mobilise for their right to give or withhold free, prior and informed consent (FPIC)¹⁰, to ensure they have a say in whether the project can go ahead, and under what conditions. Should they agree to a project, they would then expect to be kept informed about ongoing developments and the mitigation of potential negative impacts.

Many local communities and citizens in resource-rich countries are concerned with obtaining fair recompense for giving up their land and natural resources, particularly when these are non-renewable. By demanding transparency and accountability, for example, they may try to gain a say in natural resource management to ensure that revenues generated lead to sustainable development.¹¹ The quest for a fair deal can lead citizen movements to ask for contracts to be disclosed in order to assess whether the government has negotiated good terms on their behalf. Later, citizens will want to know how much their government is receiving and whether companies are paying required amounts in taxes or for permits. Citizens are also entitled to know how incoming money is spent. Local communities will probably advocate for a share to be channelled back to the areas most affected by the project. In response to the large investments that the extractives sector attracts, and the associated risks of corruption, it is becoming increasingly common for citizens to call for good governance and effective public scrutiny, to guarantee that benefits flow to all of society, rather than towards a select few.

It is important to acknowledge the wide array of civil activities that connect natural resource exploitation with human rights violations. Mobilisation may occur in the face of killings, such as the 2012 shooting of striking miners by South African police at the Marikana Platinum Mine.¹² It may be in response to sexual abuse committed by private security forces, such as those employed by the mining company Barrick Gold to protect its Porgera gold extraction site in Papua New Guinea,¹³ or to armed conflicts over access to natural resources – as in Angola, Sierra Leone and – still ongoing – South Sudan.

Most of the struggles described above are framed in terms of the rights enshrined in international treaties and conventions. The International Covenant on Economic, Social and Cultural Rights – ratified by 164 countries, including many rich in natural resources – states in its first article:

“ All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.”¹⁴

Additionally, 22 states, many in Latin America, have endorsed the Convention Concerning Indigenous and Tribal Peoples in Independent Countries, issued by the International Labour Organization. Known as ILO 169, this sets out in Article 15 the specific rights of indigenous populations over natural resources.¹⁵ Despite these commitments, more and more governments are choosing to disregard their obligations under international law and to clamp down on natural resource activism. Similarly, countless private companies fail to adhere or to effectively implement available voluntary schemes such as the UN Guiding Principles on Business and Human Rights or the Voluntary Principles on Security and Human Rights. These aim to align corporate policies and procedures with internationally recognised human rights principles.¹⁶

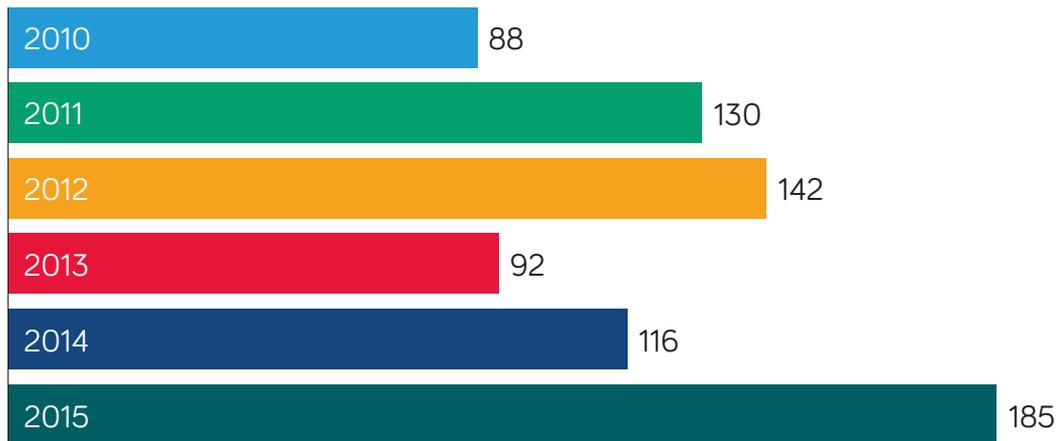
Motivations for repression

The commercial exploitation of natural resources is often extremely lucrative, conferring significant economic and political power on those that control it. It is no easy task for civil society to question the way companies do business. Wealthy firms can afford teams of lawyers and experts to fight claims, as illustrated over the years by the lengthy Ecuadorian court case against Texaco/ Chevron¹⁷. Corporations in the natural resource sector are powerful opponents, not just for civil society. Sometimes even states struggle to assert their rights against large multinationals.

Speaking up about natural resource governance is a risky undertaking because the sector is characterised by strong power imbalances between influential actors and marginalised groups. Few countries have managed to escape the resource curse – the negative economic, social and political effects that accompany the apparent blessing of plentiful mineral resources. As a result, natural resource activists tend to operate in environments that are opaque, with weak institutions prone to corruption, or internal armed conflict over access to natural resources.

Often the interests of natural resource companies and ruling political leaders are closely entwined. In its State of Civil Society reports, CIVICUS has consistently highlighted market fundamentalism and the tight overlap between political and economic elites as key drivers of inequality and shrinking space for activists who expose corruption. In countries as diverse as Myanmar, Saudi Arabia and Venezuela, states and ruling elites are highly dependent on the income generated by their natural endowment. In political systems in which power is systematically denied to citizens, power holders perceive questions about the management of the sector as attempts to interfere with their actions. Authorities in Angola, Congo Brazzaville and Gabon, unnerved by nascent PWYP-led civil society coalitions venturing into sensitive areas, have labelled activists as political agitators and jailed them in attempts to keep them quiet.¹⁸ In every case, the mobilisation of PWYP's global network was key to supporting the activists and obtaining their release.

Number of killings of land and environmental defenders between 2010 and 2015



Sources

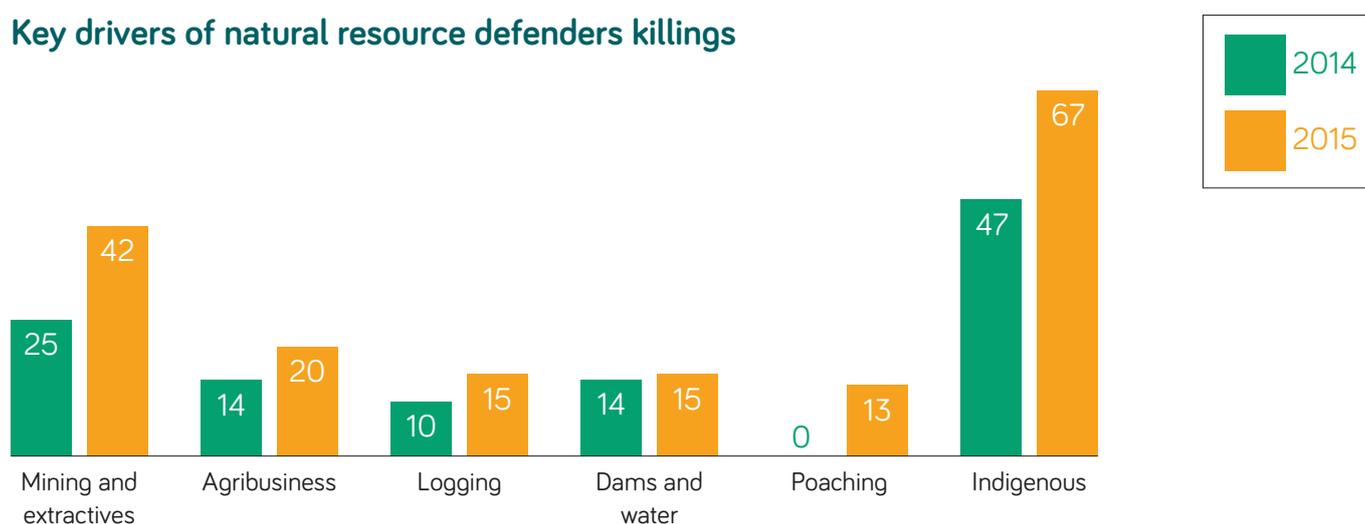
<https://www.globalwitness.org/en/campaigns/environmental-activists/deadly-environment/>
<https://www.globalwitness.org/en/reports/dangerous-ground/>

Natural resource activists often struggle to overcome social and geographic marginalisation. Usually occurring in remote areas, natural resource exploitation mainly affects local and indigenous communities whose fate often tends to be of little interest to national politicians and global public opinion. In many countries, land rights – in particular relating to customary or communal land – are ill defined. This leaves indigenous groups on unclear legal ground when they seek to defend the territory in which they have lived for generations.¹⁹ Poor levels of education within indigenous populations, coupled with prejudice among senior officials and the judiciary, further reduce the chances for marginalised groups to be heard. Even where the state is not directly repressing communities far removed from a country's capital and main urban areas, it often fails to protect them. Where state structures are weak, at local level activists often fear for their lives when denouncing groups such as smugglers, guerrilla forces and paramilitary fighters who unlawfully take control of local resources and readily use violence against those they perceive as a threat.

Given these power imbalances, activists came to understand early on that they need to take part in strong global support networks to improve their chances of making an impact. This realisation was central to the emergence of the PWYP coalition in 2002. According to activists, global solidarity has been critical for protecting those who challenge natural resource management. In light of the current pressure on civic space,²⁰ the importance of establishing tight nets of solidarity with natural resource activists on the ground has only grown.

For several years now, national, regional and international civil society groups have documented the dangers that environmental and land-rights activists face. These often have lethal consequences, as land grabbing proceeds, tolerated by states. Governments in Latin America²¹ and elsewhere are eagerly working to create 'business-friendly' environments, regardless of the risks that unsustainable resource exploitation poses to local communities and their environments. As part of establishing their pro-business credentials, governments may brand natural resource activists as 'anti-development' and pass legislation to relax companies' social and environmental obligations. Statutory requirements that local communities be consulted may be revoked, bypassed or downplayed. Environmental safeguards may be watered down to allow companies to venture further into vulnerable ecosystems. Ecuadorian President Rafael Correa's 2013 decision to allow oil drilling in the Yasuní rainforest is an example. The country earned a reputation in 2008 for environmental progressiveness, as the first in the world to enshrine the rights of nature in the constitution. Yet it eventually sold out one of its most biodiverse and culturally fragile ecosystems, endangering two nomadic tribes living in voluntary isolation.²² Other examples include Australia, Canada, India and Myanmar. Less known is the case of Sweden, which in 2013 launched a strategy to become a leading mining nation, despite concerns that mining could endanger the livelihood of its own indigenous community, the Sami people.²³

Key drivers of natural resource defenders killings



Sources

<https://www.globalwitness.org/en/campaigns/environmental-activists/how-many-more/>

<https://www.globalwitness.org/en/reports/dangerous-ground/>

The scramble for natural resources is nothing new. Yet, combined with the current global retreat from progressive values, it is creating a toxic environment for natural resource activists, who suffer as a result of the alarming decline in civic space worldwide.²⁴ Essential freedoms that make up civic space – those of association, peaceful assembly and expression – are under attack. This endangers citizens' ability to exercise dissent, petition the authorities and meaningfully contribute to democratic governance.

“ Natural resource activists often struggle to overcome social and geographic marginalisation. Usually occurring in remote areas, natural resource exploitation mainly affects local and indigenous communities. ”

Civic space freedoms are embedded in international treaties such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.²⁵ International law compels governments to respect, facilitate and protect them. However, as shown by the CIVICUS Monitor, an online platform launched in 2016 to track trends in civic space, over three billion people currently live in countries where civic space is closed or repressed. CIVICUS's 2016 Civil Society Watch Report recorded serious violations of at least one category of civil society rights in 109 countries in 2015 – up from 96 in 2014.²⁶ Among the various drivers behind shrinking civic space, CIVICUS's 2016 State of Civil Society Report identified anti-terrorist, security and anti-cybercrime measures. These include heightened surveillance, the militarisation of public space, restrictions on CSOs' ability to receive funding, and a surge of extremism and rejections of human rights norms. They are often accompanied by contestation of democratic rules by political elites, leading to electoral turmoil, and significantly, by the promotion of heavily private sector-oriented models for development.²⁷

This report classifies legal and extra-legal threats faced by natural resource activists. In doing so, it draws on research by the International Center for Non Profit Law in 2016 about restrictions on environmental activism, and on CIVICUS's 2016 report on the challenges faced by civil society in Latin America and the Caribbean.²⁸ Below, the report identifies widespread trends and offers illustrations from different regions, forming a brief synthesis – rather than an exhaustive account – of current patterns of aggression against natural resource activists.

The major means by which natural resource activists are restricted

THE LAW AS A TOOL AGAINST ACTIVISM



Regulations that suffocate civil society

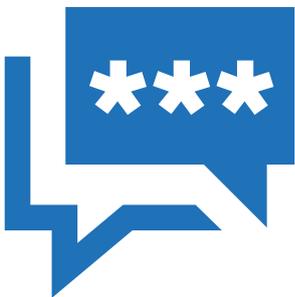


Tight control of public space

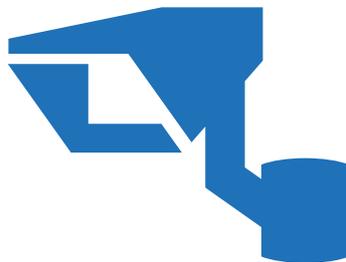


Criminalisation of activists

EXTRA-LEGAL TACTICS AGAINST ACTIVISM



Vilifying those who speak out

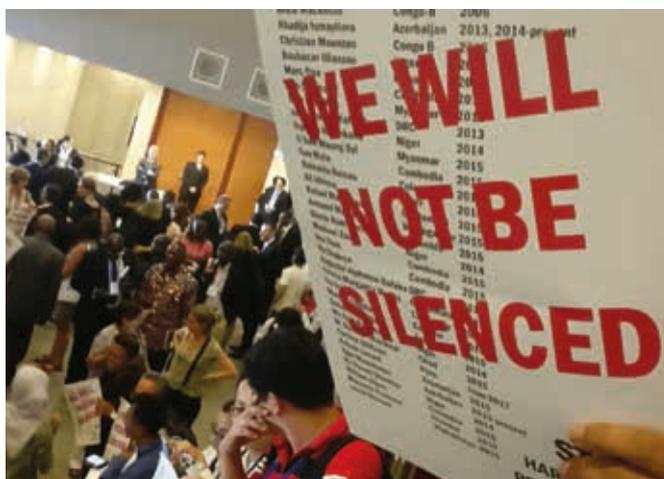


Unwarranted surveillance



Intimidation and violence

The law as a tool against activism



Civil society protest during the EITI conference in Lima, Peru, February 2016. The placard lists PWYP activists that have faced repression and threats because of their work.

© Colin Tinto

Civil society everywhere strives for the rule of law as a means to subordinate power holders to well-defined, established regulations.²⁹ In principle, civil society tends to see the law as an ally for seeking the recognition of rights and obtaining redress for violations. However, a recent trend has been observed of various governments increasingly not upholding the rule of law, but rather introducing and applying laws with the purpose of consolidating their power.³⁰ In these cases, laws are aligned to the interests of ruling elites and enforced as a means of curtailing civil society activities. Legal threats can come from every branch of the state – legislative, executive or judiciary – at every level, including local, provincial and federal.

This section describes how governments are making and applying laws that can endanger rather than empower activism. In doing so, it takes a closer look at three growing trends:

- the introduction of legal provisions to obstruct the registration, funding and activities of CSOs
- the amendment of legislation to allow for the more authoritarian policing of protests
- the criminalisation of legitimate activism through the judicial system.

Regulations that suffocate civil society



The amount of legislation regulating civil society has increased in many countries. In the past few years, over 60 countries have passed or drafted legislation that narrows the space for CSOs to operate.³¹

In many instances, government powers have been extended to restrict CSOs from working in areas deemed sensitive or controversial, such as environmental and land rights. They allow states to dissolve organisations without judicial oversight and on arbitrary grounds, and impose limitations or even outright bans on CSOs' ability to receive international funding. Anti-terrorism measures, cybercrime laws, revisions to regular criminal codes and anti-money laundering regulations have also been used to curtail CSO activities and access to resources.

Governments have generally sought to justify these restrictions in the name of vaguely defined national security concerns, national interests and even democratic accountability. However, examination of the context in which these legal measures have been introduced reveals a clear intent to silence civil society activists and curtail their ability to expose bad governance. Not surprisingly, the effects of these restrictions have been greatest on political advocacy groups, as the segment of civil society that governments most frequently perceive as challenging their authority.



Open-pit artisanal gold mine in the highlands of Madagascar. The mine was exploited by groups of people, often families, and was also the scene of several fatal accidents when mine shafts collapsed next to the terrace mining system.

© Timothy Healy/AQUATERRE/
PWYP Madagascar

 Several recent changes in legislation governing CSOs appear to have been directly linked to civil society action triggered by conflicts between the demands of extractive industries and those of affected local populations. In **Ecuador**, regulations issued in June 2013 (under Executive Decree No 16) provided a new framework for CSO operations, requiring all organisations to re-register and giving the authorities discretion to deny or withdraw legal status. This, along with new regulations granting the government broad powers over media content, was issued just two months before the controversial decision to drill for oil in the Yasuní National Park was announced. Not surprisingly, the first victim of Executive Decree No 16 was a prominent environmental CSO working in indigenous territories, the Pachamama Foundation. This was summarily shut down in December 2013, having been publicly depicted by President Correa as a threat to Ecuadorian interests and democracy.³² Pachamama had worked for 16 years on the sustainable development of indigenous communities in the Ecuadorian Amazon region. For a decade it had supported the struggle of a Kichwa community in Sarayaku against an oil concession involving their land being granted without their consent. In June 2012 the Inter-American Human Rights Court had ruled in favour of Sarayaku and ordered the government to compensate the community, setting a precedent regarding the costs of bypassing mechanisms for communities to give or withhold free, prior and informed consent.

 In **Australia**, in 2015, the government endorsed a plan to repeal the section of the Environment Protection and Biodiversity Conservation Act that allowed green groups to mount legal challenges to project approvals. This followed the successful action by environmental groups to overturn authorisation of a controversial new coalmine in Queensland.³³ The new government announced that it will pursue the adoption of these amendments and could even go further and reassess taxpayer subsidies to environmental groups.³⁴ Similar developments have been reported in **Canada**. Amendments passed in July 2012 limited public comments on project proposals. This prevented environmental defenders from challenging environmental assessment hearings relative to the Line 9 pipeline, built by Enbridge in 1976 to transport oil from the east to the west coasts. Controversy arose around the proposal to repurpose it to carry oil from the west to refineries in Quebec, with multiple environmental implications.³⁵

 Groups working on natural resource governance are particularly vulnerable when general clampdowns on civic space are orchestrated, typically ahead of elections. In **Equatorial Guinea**, a series of extremely restrictive laws was passed in the 1990s. This hampered domestic CSOs' ability to register, access funding, organise meetings, affiliate with international networks, engage in advocacy activities or access public decision-making processes. As a result, CSOs are now scant, particularly in human rights advocacy.³⁶ The use of legislation to silence independent voices has tightened further at critical junctures, most recently in the run-up to the April 2016 presidential election. In this context, *Centro de Estudios e Iniciativas para el Desarrollo* (CEID), a CSO registered since 1998 and dedicated to supporting independent domestic CSOs and educating citizens about their rights, was suspended for allegedly “disseminating among the Equatoguinean youth messages aimed at inciting to violence and civil disobedience”.³⁷ Given CEID's involvement with the Extractive Industries Transparency Initiative (EITI)³⁸ and its crucial role in coordinating CSOs working on these issues, government harassment was nothing new. The organisation had already experienced retaliation for exposing President Obiang's mismanagement of oil revenues. As a result, CEID staff chose not to be intimidated, and challenged the decision via administrative grievance procedures. They resumed activities three months after the original suspension order, despite their unclear legal situation.³⁹

 Increasing rhetoric about foreign influence has recently led to the introduction of bans or constraints on external funding, and of restrictions to the activities of international CSOs in several countries – including three in South America alone. Typically, these regulations have been justified by the premise that foreign actors have no right to pursue ‘political objectives’ or impose ‘ideological conditions’.⁴⁰ In **Bolivia**, while international funding has not been banned, a 2013 law introduced a series of administrative obstacles to restrict it. The same year, both the US bilateral development agency USAID and the Danish CSO IBIS were expelled from Bolivia after being accused of political meddling and attempts at destabilising the government. IBIS's work with indigenous communities was described as conspiratorial and blamed for dividing indigenous organisations and causing them to oppose the government.⁴¹

 The use of so-called ‘foreign agent’ laws, pioneered by **Russia's** government in 2012 to impose restrictions on groups receiving funding from abroad, seems to be spreading in Eurasia. In **Kyrgyzstan**, a bill modelled on the Russian example was passed on first reading, but then halted in extremis by parliament in May 2016, as legislators feared damaging the country's image abroad.⁴² In 2015, **Kazakhstan** adopted a similar law to establish a central agency to channel CSO funding – a clear attempt to strengthen pro-government CSOs to the detriment of independent ones.⁴³

 In **Ethiopia**, the adoption of the 2009 Charities and Societies Proclamation (CSP) precipitated the near-complete cessation of domestic advocacy activities, including independent human rights reporting and campaigning for good governance. Under the Proclamation, international CSOs are banned from engaging in domestic advocacy, and national groups are prohibited from receiving more than 10 per cent of their funding from foreign sources if they work on conflict resolution, democracy, human rights or rural development.⁴⁴ As a result, few CSOs have managed to maintain their mandate and stay open. Those that continue to exist have been increasingly subjected to discriminatory application of the law, and state intimidation and harassment. Organisations that lead environmental campaigns, such as the Forum for Environment, have had to reorient their activities to continue operating. Others, such as the national Transparency International chapter, which promotes transparency in the nascent mining sector, have had to considerably downsize, laying off staff and closing local offices.



Marginalised no more!
Indigenous communities in the Philippines are enabled to participate in decision-making processes through training and increase of knowledge.

© Bantay Kita/PWYP Philippines

 Several other African states since have attempted to mimic the CSP, in some cases successfully. **Kenya's** government tried to introduce a similarly restrictive law in 2015, but faced massive resistance by domestic groups and eventually withdrew the initiative. **Uganda's** new Non-Governmental Organisations Act, signed into law in January 2016, also seems to have drawn inspiration from the Ethiopian experience. Allegedly seeking to establish wider space for CSO participation, the NGO Act consolidates the role of the NGO Board (a government agency in the Ministry of Internal Affairs). This regulates civil society by issuing operating permits, monitoring CSO activities and scrutinising their sources of income. In addition, the law bans CSOs from engaging in “any act which is prejudicial to the security and laws of Uganda”.⁴⁵ Given that energy and mineral resources are considered by the state to be vital to national security, these provisions present a further threat to groups addressing mining, oil and gas exploitation. Provisions contained in older laws, such as the Public Order Management Act, have also long been used against organisations such as PWYP-Uganda, whose members have repeatedly been summoned on allegations of inciting violence. They have also been denied authorisation to hold community meetings or conduct awareness-raising workshops about oil extraction.

 While civil society in Uganda is still waiting to see how the NGO Act will play out in practice, activists in **Azerbaijan** have witnessed the dramatic consequences of legislative restrictions on the registration and activities of independent CSOs. These came into force in February 2014,⁴⁶ subjecting CSOs to extensive government control over registration, governance, funding (including the blocking of new funding) and banking operations (including the freezing of bank accounts). Under the measures, penalties for violating various laws were increased, to include heavy fines and suspension for breaching new and onerous administrative obligations. The authorities have launched various administrative and legal procedures against CSOs. As a result, politically motivated and often far-fetched criminal cases and tax investigations have been brought against CSOs and activists, including some international CSOs. Specifically targeted were those promoting government transparency and accountability, including several members of the EITI NGO Coalition that voiced criticism over the government's wasteful and unaccountable use of oil revenues.⁴⁷ Since 2014, scores of civil society leaders have been jailed or forced into exile, and many Azerbaijani CSOs have stopped operating, in some cases permanently. Others have struggled to maintain their activities while fighting back at home and seeking support in international spaces, such as the EITI and the Open Government Partnership. Both initiatives have since sanctioned Azerbaijan in response to its attacks on civil society.⁴⁸

Tight control of public space



Around the world, repression is mounting against the freedom of peaceful assembly. In the name of maintaining public order, legal changes are being introduced to allow tighter control of public space by state authorities. Some allow security forces to use lethal force. In many countries, non-violent actions such as marches, occupations and roadblocks – historically employed by a variety of protest movements – are being codified as crimes. Criminal justice systems are also being systematically used to inhibit protests, as shown by the number of activists jailed for organising or participating in demonstrations. Although the authoritarian policing of protests is not necessarily backed by law, recent legal changes observed worldwide indicate growing hostility to the peaceful expression of dissent – more often than not leading to violence and death.

Many states deal with protest through their criminal codes, and have recently introduced or maintained requirements that demonstrations must receive prior authorisation, as opposed to protest organisers simply submitting a notification. In **Colombia**, demonstrators must write to the authorities 48 hours before a protest to request authorisation. Since the Citizen Security Law was passed in 2011, the obstruction of roads and transportation infrastructure is considered a crime punishable with steep fines and 2-4 years in prison. In 2013, after demonstrations in support of a peasant strike left two people dead and more than 100 wounded, the Colombian president ordered the militarisation of the capital city, Bogotá, further restricting the freedom of peaceful assembly.⁴⁹

An ‘anti-blockades’ law was also passed in **Guatemala** in 2014, with the stated aim of guaranteeing traffic circulation, but the suspected intention of restricting social protest.⁵⁰ There is also a trend towards the inclusion of vaguely defined notions of ‘terrorism’ in the criminal codes of various countries, including **Brazil** – an approach civil society suspects will be used as a tool to criminalise activists and demonstrators.⁵¹

In recent years, the successful deterrence of coal seam gas extraction through direct action campaigns⁵² has prompted provincial governments across Australia to adopt anti-protest laws in attempts to limit activism at mining and coal seam gas sites. Legislation passed first in Tasmania and Western Australia, and then in New South Wales (NSW) in March 2016, encroaches on fundamental rights to assemble and protest. The NSW laws give police excessive powers to stop, search and detain protesters and seize property, and to shut down peaceful protests that obstruct traffic. They also expand the offence of ‘interfering’ with a mine, which carries a penalty of up to seven years in prison, to apply to coal seam gas exploration and extraction sites.⁵³

In resource-rich countries where laws have been introduced to allow the repressive management of protests, and in those where they have not, repression of indigenous and environmental protests has long been a common occurrence. This is particularly apparent in Asia and Latin America,⁵⁴ but concerns have also been raised in the **United Kingdom** about disproportionate policing of the Barton Moss Community Protection Camp, set up between November 2013 and April 2014 to raise awareness about test-drilling for shale gas by the company IGas Energy. A 2016 report questioned the Greater Manchester Police for using mass arrests and disproportionate bail conditions to create a protest exclusion zone around the fracking site without resorting to the formal criminal justice system. Also alarming were the allegations of gendered violence experienced by female protesters.⁵⁵

 Demonstrations are also often suppressed in advance. In **Niger**, 10 members of the local PWYP coalition *Réseau des Organisations pour la Transparence et l'Analyse Budgétaire* (ROTAB) were arrested in July 2014 after announcing a public demonstration. In preparation for an official visit by French President François Hollande, ROTAB had organised a press conference to call on AREVA, the French state-owned nuclear giant that mines uranium in Niger, to respect the country's laws. ROTAB also encouraged citizens to wear a yellow scarf, a symbol for uranium, to welcome President Hollande. Following the press conference, ROTAB's coordinator Ali Idrissa was arrested and briefly detained, while other ROTAB members wearing a yellow scarf were prevented from joining the public gathering and held in police stations for several days.⁵⁶

“ Advocating for sound economic governance in our countries remains a major challenge, as local elites capture state structures to deplete our countries’ natural resources, under the complicit watch of the international community. Obsession with fighting terrorism, containing immigration and securing access to cheap commodities overshadows the need for local development in our countries and puts our activists directly at risk. ”

Ali Idrissa, ROTAB Coordinator, Niger

 While restricting international donor support to civil society work on rights and governance, **Kazakhstan's** government proposed in early 2016 to extend from 10 to 25 years the time for which foreigners could lease land, as a way of stimulating foreign investments. Hundreds of people rallied in protest in April and May 2016. Two activists, Talgat Ayan and Maks Bokaev, played leading roles in one of the largest demonstrations in Atyrau on 24 April. They had formally requested permission to hold the protest, but authorisation was denied. As the rallies proceeded, they were detained on 17 May, along with dozens of others across the country, and sentenced to 15 days in detention for allegedly violating the law on public assemblies. In the meantime, the authorities brought new charges against them, such as “organizing an illegal protest,” “inciting social and national discord,” and “disseminating false information,” mostly based on “psychological and linguistic assessments” of their Facebook posts. They currently await trial and face up to 10 years in prison.⁵⁷

 In southern **Chile's** land disputes, excessive force and arbitrary detentions have become commonplace in police operations against indigenous Mapuche communities. Their members have faced decades of persecution for resisting land confiscation by logging companies.⁵⁸ In September 2015, 40 Mapuche protestors who had for three weeks been occupying the Temuco offices of the National Indigenous Development Corporation (the government agency in charge of indigenous affairs) were violently evicted by the security forces. The military police fired tear gas into the building despite knowing that women and children were present. Protestors demanded the restitution of usurped lands and the demilitarisation of the Mapuche community of Ercilla, in the Malleco province, which had been occupied by police troops for months in an attempt to quell indigenous resistance.⁵⁹



A man looking at the landscape of Alamit, in Philippines.

© Loi Manalansan

Even when laws do not directly undermine the freedom of peaceful assembly, they may fail to prevent the disproportionate use of force by the authorities, which may overstep their legally and constitutionally defined competences. Deaths caused by the police using excessive force during protests often remain unaddressed by the justice system. Too often no charges are filed, and when they are, progress in bringing perpetrators to justice is typically slow. In **Myanmar**, state authorities are yet to investigate the use of violence against villagers and monks protesting against the Letpadaung copper mine operated by the company Myanmar Winbao. In December 2014, a police shooting during demonstrations at the mine resulted in the death of one person, injuries to 11 others and the arrest of five demonstrators on charges such as unauthorised protesting and defaming the state. Previous police action against Letpadaung protestors in 2012 involved smoke bombs containing phosphorus, resulting in injuries to 108 people.⁶⁰

To date, the bloodiest repression of protests relating to land rights is taking place in the Oromia region of **Ethiopia**. Peaceful protests started in November 2015 as the government forced Oromo farmers off their land to sell it to foreign investors. Since then, at least 500 protestors have been killed by the security forces.⁶¹

Human rights organisations have repeatedly denounced all this repression, calling for governments to respect international standards on the policing of protests. Meanwhile, civil society actors are promoting self-protection measures at global and local levels. Among them are the young volunteers from Mexico City's *Brigada Humanitaria de Paz Marabunta*, who form human walls between demonstrators and the police, act as mediators, provide emergency assistance to wounded protestors, and document through photo and video any aggression and human rights violations that occur. Several CSOs, such as Article 19, also provide demonstrators with valuable advice on how to stay safe.⁶²

Criminalisation of activists



In various countries, the criminal justice system is deliberately being used against natural resource activists to undermine their work and discourage others from joining them.

A common tactic is to have activists

detained on fabricated charges for weeks or months, only to release them as their cases are dismissed for lack of merit. Charges based on draconian anti-terrorist legislation, typically allowing governments to bypass some legal protections on security grounds, appear to have become increasingly common. As well as being denied basic rights to due process, many arbitrarily imprisoned activists are also subjected to abuse while under detention.

Cases of judicial harassment and the unwarranted detention of activists opposed to large-scale extractive and infrastructure projects that harm the natural and social habitat of indigenous communities have been reported in dozens of countries. A 2016 report by the Observatory for the Protection of Human Rights Defenders documents the abusive use of criminal legislation to penalise human rights defenders as pervasive in Latin America. It involves not only state actors – the police, the military, government officials and judges – but also private corporations and landowners.⁶³

 In **Peru's** Espinar province, a conflict surrounding environmental pollution that erupted in 2012 between local residents and the mining company XstrataTintaya (now known as Glencore Antapaccay) resulted in criminal cases being brought against nine social leaders. Among them were Herbert Huaman Llave and Sergio Huamani Hilario, who were accused of various crimes against public order, including disturbances, obstruction of public services and infringement of public safety. These carry jail sentences of up to 20 years. The process was still ongoing in September 2016, more than four years after the dispute.⁶⁴

 Similarly, in **Paraguay**, judicial proceedings lasted years against 13 peasant farmers accused of participating in the killings of six police officers and other related crimes during a 2012 land dispute in the Curuguaty district. All the farmers were eventually convicted and sentenced to between four and 30 years in prison, as the judge concluded they had 'ambushed' the police. The deaths of 11 peasant farmers during the clashes were not, however, investigated.⁶⁵



Demonstration in the Philippines by activists standing up for their rights to campaign for the environment.

© Bantay Kita/PWYP Philippines

 Companies are also turning to the law to suppress dissent. Peasant activist Larissa Duarte, a leader in the protest against a hydroelectric project on the Cobre River in **Panama**, was recently sued for US\$10 million by private corporation AHM. The company claimed losses when the project was cancelled. Panama's *Red de Derechos Humanos*, an umbrella CSO, interpreted the lawsuit as "not just an act of harassment and intimidation against this individual activist, but also a threat against each HRD [human rights defender] and WHRD [women HRD] in the country."⁶⁶

 In February 2016 in **Sierra Leone**, six members of the Malen Land Owners and Users Association, acting against land-grabbing, were found guilty of “destruction of growing plants” that belonged to the Socfin Agricultural Company Sierra Leone Ltd. They were also sentenced for “conspiracy” and “incitement” for allegedly ‘brushing’ the company’s palm oil plants. The activists, who denied all allegations, were arrested in October 2013 and arbitrarily detained for a week. Despite the absence of evidence, their case was referred to the High Court in July 2014. They were detained overnight, released on bail, subjected to a 20-month long trial, and eventually convicted and sentenced to steep fines or 5-6 months’ imprisonment. Several fellow activists faced judicial harassment in two other simultaneous criminal cases.⁷⁰

 A recent prominent case in **Cambodia** is that of Ven Vorn, an environmental activist and community leader of the indigenous Chong minority in Koh Kong province. He faces charges connected to the construction of a small community meeting-place for local activists involved in a campaign against a proposed hydroelectric dam in the Areng Valley. The activists claim the dam threatens their land and livelihoods, and the environment. In February 2016, Mr Vorn appeared before the provincial court to answer charges of “harvesting timber products and/or non-timber forest products without a permit” and “destruction of evidence”. Although the latter charge was dropped for lack of evidence, Mr Vorn could still spend up to five years in prison if convicted of the former. For the meeting-place, Mr Vorn and other activists had purchased 10 cubic metres of wood, which the authorities claimed the vendor had sourced through illegal logging.⁷¹



Open pit at Kumtor gold mine located in Kyrgyzstan at high altitude of 4,000m above sea level, as seen during a visit to Kumtor in August 2012.

© Kalia Moldogazieva

 In **Azerbaijan** – a major oil producer – 10 EITI NGO Coalition members were involved in a criminal case launched against Oxfam by the Prosecutor’s Office on Grave Crimes in May 2014.⁷² They were subjected to interrogation, searches and travel bans, and were eventually targeted for investigation themselves. In an unrelated case, three other coalition members were arrested and underwent abusive trials leading to prison sentences, which in one instance also involved an activist’s family members. Several others, including the founder of the Public Association for Assistance to Free Economy, Zohrab Ismayil, had to flee Azerbaijan to avoid prosecution, and currently remain in exile.⁷³

Extra-legal tactics against activism



Activists face threats and other non-lethal physical attacks when exercising their right to freedom of expression and assembly.

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Although non-state actors can take advantage of legal processes such as anti-terrorist provisions or criminal defamation laws, the state is the ultimate source of legal challenges to natural resource activists. Extra-legal challenges, however, can come from a wider variety of sources.

Some of the most serious violations of civic space come from both state and non-state actors that are tolerated by or act in collusion with governments and security forces – particularly at the local level. Much of the danger currently faced by natural resource activists results from the existence of webs of corruption that bring together politicians, public officials, security forces, private corporations and, sometimes, organised crime. Crackdowns on civil society are frequently driven by sections of the elite wanting to preserve their own power. Unsurprisingly, CSOs and citizens who protest against lucrative natural resource projects are therefore among the most targeted civil society actors. They face three broad categories of extra-legal challenge:

- public vilification
- unwarranted surveillance
- intimidation and violence (including enforced disappearances and murder).

Vilifying those who speak out



There are numerous examples of public figures making deprecating statements against natural resource activists. Smear campaigns have emanated from sites of authority in countries ruled by governments

of every political colour. In several documented cases, presidents and other high-ranking public officials have used the national media to wage personal wars against CSOs and activists. These have been characterised as anti-national, anti-development, destabilisers of democracy, bearers of dangerous ideas, enemies of good morals and domestic traditions, mercenaries, conspirators at the service of foreign interests (particularly of “American imperialism” in Latin America), and even as terrorists.⁷⁴

A frequent accusation is that activists spread lies about domestic human rights violations, deliberately damaging a country's international image. Smear campaigns are often complemented by bureaucratic manoeuvres hindering CSOs' normal functioning. Such demonisation often paves the way for further legal and extra-legal restrictions on activists and CSOs. It serves as justification for the introduction of restrictive laws and regulations, and leaves natural resource activists vulnerable to other aggressions, including surveillance, threats, intimidation and physical violence.

“ Two categories of environmental rights activists exist in Kenya - the elite conservationists working in the areas of animal poaching and conservation. These ones are well recognised and supported locally and internationally. However, the grassroots movements focusing on business and human rights are locally seen as anti-development actors and thus get no support from the state and somehow also from international actors. ”

Phyllis Omido, Center for Justice, Governance and Environmental Action (CJGEA), Kenya⁷⁵



Attacks to delegitimise natural resource activists and CSOs frequently point to their international connections and funding, questioning their loyalties and positioning them as anti-national and opposed to progress. In **India**, a crackdown on the local chapter of Greenpeace was preceded by the emergence of a classified but leaked document by the Intelligence Bureau in which several foreign-funded CSOs were identified as 'anti-development'. The document claimed that the delay in large-scale projects from civil society activity against nuclear, uranium and coal-fired power generation, hydroelectric power, farm biotechnology and mining caused a 2-3 per cent annual dent in GDP growth. Alongside frequent, high-profile speeches by senior public officials, the document denounced international funders as deliberately stunting the Indian economy under the guise of charitable funding.⁷⁶ Thousands of CSOs had their licences revoked in 2014-15 for alleged violations of the law on foreign funding.⁷⁷ Greenpeace India was labelled “anti-national” and its bank accounts frozen. Some of its foreign workers were deported and local staff were prevented from travelling abroad. In January 2015, a Greenpeace activist was banned from boarding a flight out of Delhi.⁷⁸ Priya Pillai had been involved in Greenpeace's campaign against the government's decision to commission new coalmines in central India, which would destroy the Mahan forest in Madhya Pradesh and the livelihood of tribal people living in the area.⁷⁹ In April and May 2016, the organisation's bank accounts were frozen and it faced the prospect of having to shut down for lack of resources. When a court ruled in Greenpeace's favour and released its domestic funds, another government order placed its NGO registration under review, effectively suspending it for six months.⁸⁰



Similarly in **Nicaragua**, opposition to the Chinese-backed Interoceanic Canal has been characterised by the government as anti-development and dictated by US geo-strategic interests.⁸¹ Yet this large-scale project to connect the Atlantic and Pacific Oceans would threaten the region's main freshwater reserve, while flooding and displacing several peasant and indigenous communities.



This trend is also apparent in established democracies, such as **Canada**. Hoping to benefit from booming commodity prices, the Canadian government promoted the quick completion of two major oil pipelines, the Keystone XL and Northern Gateway. It persistently labelled activists from environmental groups and affected indigenous communities as “eco-terrorists”. In an open letter published in 2012, the Canadian Natural Resource Minister stated that:

“environmentalists and other radical groups [...] threaten to hijack our regulatory system to achieve their radical ideological agenda [...] and...] use funding from foreign special interest groups to undermine Canada’s national economic interest.”⁸²

Echoing the idea that domestic protest groups jeopardised the national economic interest,⁸³ conservative politicians subsequently proposed legal changes to silence groups opposing trans-continental pipelines. Amendments contained in Bill C-38, known as the Jobs, Growth, and Long-term Prosperity Act (2012), allowed the Minister of National Revenue to suspend tax exemptions for CSOs devoting more than 10 per cent of their budget to political activities.⁸⁴ The bill also required charities to provide more information on foreign funding aimed at political advocacy, as well as on donors providing funding to other charities for political purposes. Canada’s official counter-terrorism strategy at the time identified environmentalism as a potential source of “domestic issue-based extremism.”⁸⁵ To further discredit groups opposed to its energy policies, the Harper administration launched a series of political activity audits against charities conducting advocacy on natural resource projects, including pipelines.⁸⁶

“Canada is a good example of the vulnerability of civil society organisations. The [previous] government very successfully closed civic space, making it challenging and even impossible for certain civil society actors to meet with elected and unelected officials. However, it also demonstrates how a newly elected [progressive] government can reopen that space. So it is a case that speaks well to issues of political will and political power in civic space.”

Claire Woodside, PWYP National Coordinator, Canada

Unwarranted surveillance



Under the guise of national security concerns, state actors in many countries are using surveillance methods that undermine the freedoms of association and expression. This

sometimes means using the widened powers granted to them by anti-terrorist legislation. In many other cases they have simply overstepped their legally defined mandates, to spy on citizens. Surveillance is often conducted without adequate oversight by domestic monitoring agencies. CSO activities can be surveyed in various ways: through informants who infiltrate targeted groups, by intercepting information online or via phone calls, or by observation from a distance. Surveillance has also been undertaken as a control and intimidation tactic by non-state actors. It is often difficult for activists and organisations to tell whether a state-run agency or a private corporation is spying on them. Pervasive surveillance by shadowy agents often casts a chill on civil society freedoms and may lead to conscious or unconscious self-censorship.

 In **Congo Brazzaville**, members of the PWYP coalition regularly receive random phone calls, even while travelling abroad and using new SIM cards. No word is ever spoken, but it seems clear that the message is meant to be intimidating. Activists should expect that their traced movements and recorded conversations could be held against them at any time. In the Republic of Congo, as well as in a variety of African, Asian and Latin American countries that are hotspots of environmental conflict, activists suspect their online activity is constantly monitored and therefore use encryption as a safer means of communication.⁸⁷ However, this risks exposure to further scrutiny, as the use of encryption attracts suspicion. Self-censorship is also encouraged by the systematic infiltration of workshops and other meetings, such as those held in Congo to discuss the public expenditure of oil revenues, which constitute over 80 per cent of state income.



Over the years, evidence of the surveillance of environmental groups has accumulated in Latin America. In some cases, such as that of Yasunidos, a group campaigning against oil exploitation in the Amazonian region of **Ecuador**, the suspected source of surveillance was the state. The organisation filed a complaint with the Public Prosecutor's Office when another CSO, *Ecuador Transparente*, uncovered a series of reports revealing that the National Secretariat of Intelligence had thoroughly analysed the group's internal organisation and methods, as well as its activists' identities, calls and whereabouts. An investigation was requested on the grounds that espionage had been conducted without a judicial warrant.⁸⁸



Activists are often targeted by online surveillance and have their communications intercepted.

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In other cases, surveillance has been traced to private security companies working for mining or oil corporations. In **Argentina**, strong suspicions of "intelligence work" conducted among protesters by the Osisko Mining Corporation, apparently in collaboration with members of the police force, were aired in Famatina, La Rioja province. The surveillance came to light in December 2011, when company representatives inadvertently left behind a folder after a meeting with municipal leaders. This contained lists with detailed personal information of protesters, characterised according to their degree of involvement.⁸⁹

 The use of surveillance to undermine legitimate activism is not restricted to authoritarian regimes or limited democracies in the global south. Recent examples from Western countries show how public officials collude with powerful energy companies to spy on environmental groups whose peaceful protests – particularly against natural resource projects – are labelled as threats to national interests.⁹⁰ In **Canada**, a heightened level of scrutiny followed the federal government's repositioning to favour exploitation of the country's oil reserves as a matter of national interest. Documents obtained through an Access to Information Request in 2012 revealed that several aboriginal and environmental groups had been put under surveillance by the Royal Canadian Mounted Police. These included the Yinka Dene Alliance, a coalition of First Nations organisations opposed to the Northern Gateway pipeline.⁹¹ Despite the groups' taking no violent action, briefings prepared by Canadian Intelligence on their activities were routinely shared with private corporations so they could adopt preventive measures. Surveillance increased in 2012 as the police established a unit in its Integrated National Security Enforcement Team in Alberta to protect the province's "critical infrastructure" from "criminal extremism and terrorism". The 2015 report by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association concluded that extensive surveillance practices had undermined the quality of consultation processes in Canada. It stated that:

“ For consent to be free, prior and informed, consultations should be conducted in an environment free of intimidation or fear, meaning that meetings should be free from infiltration by security organs, surveillance and attendance by uniformed or armed law enforcement agents.”⁹²

 Spying on environmental groups has also been reported in the **USA**. In September 2010, the Gas Drilling Awareness Coalition (GDAC), a group formed by Pennsylvania residents opposed to fracking in the region, learned that their members and activities had been featured in intelligence bulletins compiled by a private security firm, the Institute of Terrorism Research and Response. This company had been hired by the Pennsylvania Department of Homeland Security to draft weekly intelligence bulletins on a number of groups, including environmental CSOs such as GDAC. These were distributed to state law enforcement agencies and private energy companies. Government agencies have since added the names of environmental activists to their suspected terrorists list.⁹³ A 2013 report by the marketing research and consulting company Frost & Sullivan concluded that “surveillance will continue to dominate the oil and gas infrastructure market” in the coming years.⁹⁴

Intimidation and violence



According to the latest Global Witness report, 2015 was “the worst year on record for killings of land and environmental defenders”.⁹⁵

The organisation documented 185 murders in 16 countries

during the year, with Brazil (50), the Philippines (33) and Colombia (26) leading the body count, followed by Peru (12), Nicaragua (12), the Democratic Republic of Congo (11) and Guatemala (10). Honduras (eight) has one of the world’s highest per capita murder rates of natural resource activists. Killings were linked primarily to mining (42 per cent), followed by agribusiness, hydroelectric dams and logging. Almost 40 per cent of the victims were indigenous people.



News reports show that the vast majority of those killed were targeted for urging that communities be consulted, advocating for greater controls on extractive industries and highlighting collusion between government officials and business interests. Culprits have rarely been apprehended. In various instances they have instead been afforded state protection. Alleged perpetrators have included law enforcement agents, state-aided militias, private security forces, drug trafficking gangs, and guerrilla and paramilitary groups. In **Colombia**, it appears that recent murders have occurred mainly at the hands of paramilitary forces, although the assailants have typically been labelled as unidentified.⁹⁶ Several high-profile cases aired in the media show patterns of aggression typically starting with vilification, intimidation, censorship, the obstruction of communications, surveillance and threats. These escalate to robbery, the confiscation of equipment, home invasions and office raids, and ultimately physical violence and murder.⁹⁷



Intimidation can start in the form of censorship, as experienced by two journalists in Katanga, a mineral-rich region of the **Democratic Republic of the Congo**. Honoré Katende and Passi Malisawa worked for a community radio station. Alarmed by the contents of a programme they had made about citizen control of public expenditures – including those of mining revenues – the authorities pressurised the private media owners, threatening the station with closure if the programme was not cancelled. As a result, the two journalists were suspended by their employer in March 2016, and remain so at the time of writing, despite an open letter sent by their colleagues to Katanga’s provincial authorities.⁹⁸



A vigil being held outside the building of the Organization of American States in Washington, DC in honour of Berta Cáceres, an environmental defender murdered on 3 March 2016 in Honduras.

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Warnings may also be violent. In January 2016, nine armed men raided the offices of JATAM, **Indonesia’s** Mining Advocacy Network. Although nobody was hurt, JATAM activists were left shocked. The network’s campaign to prevent children from drowning in former mining pits in East Kalimantan had contributed to 11 mining companies being sanctioned by the provincial government. The attack was suspected to be by local contractors of the mining companies, reacting to the sanctions.⁹⁹

 Threats and non-lethal physical attacks are the most frequent rights violations reported by civil society activists throughout Latin America. These reach alarming levels in Colombia, Guatemala and Honduras.¹⁰⁰ Early complaints filed by natural resource activists are often ignored, and impunity prevails. Renowned activist Berta Cáceres, the general coordinator of *Consejo Cívico de Organizaciones Populares e Indígenas de Honduras* (COPINH), was the target of increasingly serious death threats in the months prior to her murder in early March 2016. The Inter-American Commission on Human Rights had repeatedly called on the Honduran government to provide her with protection, which it never did. Berta Cáceres was not the first casualty in her community's struggle against the Agua Zarca hydroelectric project, and scarcely two weeks after her death, another member of her organisation, Nelson García, was also assassinated. Armed intimidation against COPINH members, including two additional attempted murders, steadily continued in the following months, allegedly perpetrated both by state security agents and individuals on the payroll of DESA (Desarrollos Energéticos S.A.), the company responsible for the dam construction.¹⁰¹ Under increasing international pressure, four suspects were eventually arrested for Berta Cáceres' murder, including a DESA staff member. However, the judicial file of her case was later stolen.

 In **Brazil**, two indigenous leaders were shot to death in a single week of 2015. Anti-logging activist Eusebio Kaapor was killed on 26 April, allegedly by gunmen linked to business leaders involved in illegal logging on the Kaapor ancestral lands of Alto Turiaçu, Maranhão state. Adenilson da Silva Nascimento, a leader of the Tupinambá tribe, was then ambushed on 1 May in the state of Bahia, on the indigenous lands of Olivença. In a region marked by intense land conflicts, the three perpetrators of this attack were identified by fellow tribesmen as gunmen sent by local *fazendeiros* (landowners). According to the Pastoral Land Commission, 50 deaths linked to land conflicts were documented in 2015, mostly in the poorer northern states, whose economy is largely based on plantations, agricultural extraction and mining.¹⁰²

 The Southern Mindanao region in the **Philippines** is a hotspot for the killing of anti-mining activists, with 25 deaths in 2015 alone. Among the victims was Teresita Navacilla, killed in late January 2015 in relation to the King-king mining project, dedicated to copper and gold extraction, in Pantukan. She was shot by two unidentified armed men who rode away on a motorcycle. The perpetrators were believed to be soldiers from the 46th Infantry Battalion, in charge of the security of the King-king mine. A similar paramilitary group attached to the 36th Infantry Battalion of the Philippine Army carried out the public execution of Emerito Samarca, the executive director of the Alternative Learning Center for Agricultural and Livelihood Development. He was killed along with tribal leader Dionel Campos and his cousin Aurelio Sinzo in September 2015 in Lianga, Surigao del Sur. Most recently, Jimmy Saypan, secretary general of the Compostela Farmers Association, a local affiliate of the militant anti-mining *Kilusang Magbubukid ng Pilipinas*, was chased while driving home on his motorcycle and repeatedly shot in October 2016 in Barangay New – allegedly by members of the Army's 66th Infantry Battalion. He died the following day. In the preceding weeks, Saypan had led a series of actions calling for the immediate withdrawal of the battalion from communities in Compostela. The military presence had resulted in various human rights violations and caused fear among the population. The battalion had rejected the farmers' demands.¹⁰³

“ Environmental activists in the Philippines, particularly those resisting mining operations, have been the targets of harassment, intimidation and violence. No administration has ever acknowledged the murders routinely used to silence opposition to large-scale mining. It is to the credit of the environmental movement that it remains resilient despite the scale of violence that cloaks the landscape. ”

Cielo Magno, Bantay Kita Board member, the Philippines



South African activist Bazooka (right) and friend, Scorpion Dimane.

© John Clarke

 Néstor Iván Martínez, an Afro-Colombian leader of the anti-mining movement, is among the most recent activists murdered in the Cesar region in north-eastern **Colombia**, another hotspot for violence against anti-mining activists. Martínez was a member of the opposition against the expansion of mines operated in the area by American company Drummond. He was shot dead in front of his family by two unknown assailants who forced entry into his brother's farm in Chiriguaná village in September 2016. He had been repeatedly threatened, along with many fellow activists who now fear for their lives. According to a report from the peace organisation PAX, at least 200 anti-mining activists have been the victims of attempted killings and death threats in the Cesar region over the past four years. Although both perpetrators and witnesses have exposed how the Drummond and Prodeco mining companies have provided funding, equipment and information to paramilitary forces, the companies still deny any involvement in the murders.¹⁰⁴

 In March 2016, a high-profile assassination took place in **South Africa**, when Sikhosiphi 'Bazooka' Rhadebe, founder and chairperson of the Amadiba Crisis Committee (ACC), was shot dead in his home. The ACC, a community organisation campaigning against open-cast titanium mining on ancestral lands in Eastern Cape Province, had faced sustained harassment and intimidation by the police, local authorities, the judicial system and mining companies. Ninety minutes before his assassination, Rhadebe had contacted other members of his organisation warning them about a hit-list containing his name. According to Mzamo Dlamini, ACC deputy chairperson, Rhadebe was:

“ ...the 15th opponent of this mining venture to die an unnatural death [...] We are deep in rural areas so these things are not reported by the media. For a very long time we have heard rumours that there are intentions to get rid of the leadership of the ACC. So death is something we are expecting because of the hostility. We cannot do much about it.”¹⁰⁵

Mutual protection: Civil society's coping mechanisms

As the body count rises, civil society has chosen not to remain a passive victim. While careful not to discharge the state of its duty to protect its own citizens, organisations throughout the world have started to move beyond the usual practical, common-sense security measures, to develop their own safety programmes. These initiatives monitor and minimise the day-to-day risks that civil society activists face. Many have involved the weaving of wider national, sub-regional and regional networks.

“ In Mexico there are no guarantees for defenders in our work. [...] All requests of protection made to the state fall short, because the state is the main aggressor. When you demand protection from the government, they first question if you are indeed a defender; then they question that you are really at risk; then they tell you they have no money or they trap you in a bureaucratic process, when what you need is really urgent. That is why we are building self-protection mechanisms. By doing that we are by no means relieving the Mexican government of its responsibilities, but we are raising awareness of the risks and producing security measures [to be able to continue our work]. ”

Yésica Sánchez Maya, Consorcio Oaxaca, Mexico¹⁰⁶

To better respond to attacks faced by environmental and land defenders in the Congo Basin, four prominent organisations from **Cameroon, Central African Republic, Gabon** and the **Republic of the Congo** came together in 2013 to improve the documentation of abuses. The resulting initiative, named *‘Verdir’ les droits de l’homme dans le Bassin du Congo*, is currently working to establish a permanent regional observatory and provides targeted training for journalists and lawyers.¹⁰⁷

In **Colombia**, a group of CSOs set up the Non-Governmental Programme of Protection for HRDs and WHRDs, also known as *Somos Defensores*, as a reaction to a string of murders of HRDs in 1999. On top of its education, communications, lobbying and advocacy work, the programme conducts risk assessments and provides economic support and domestic and international relocation for defenders under threat. Similarly, in **Guatemala**, *Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala* has supported threatened HRDs and their organisations since 2004 by providing information, training, monitoring and psychological support in response to threats and attacks. In **Mexico**, *Consortio Oaxaca*, a feminist community CSO based in the state of Oaxaca, provides legal assistance and accompaniment to WHRDs who have suffered violence and harassment. The organisation documents emblematic cases and advocates for the introduction of gender perspective into all existing protection policies and mechanisms.¹⁰⁸

Conclusions and recommendations

Environmental and land rights defenders, human rights and good governance advocates, indigenous groups and local communities are all part of the civil society that is fighting for a fairer distribution of the costs and benefits of natural resource exploitation. They do so by advocating for stronger consultation when national regulatory frameworks are drafted, or when decisions regarding specific projects are being made. They encourage and enable citizens to take an interest in the stewardship of their country's natural endowment, blowing the whistle when public officials lose sight of the public interest. And they scrutinise operations on the ground to keep track of their impact on local environments and livelihoods.

Yet, as this report shows, these activists are under siege. Regardless of whether intrinsically opposed to natural resource exploitation, or concerned with a fair distribution of its costs and benefits, activists from either category seem just as likely to be pestered and even killed. Two converging trends are squeezing civic space, so that instead of being able to devote themselves to their missions, they must increasingly spend time and resources fighting off attacks and trying to protect themselves. Firstly, natural resource exploitation has been intensifying around the world, endangering already fragile ecosystems. Further research might be needed to disentangle the link between trends in global commodity markets that affect investment in natural resource projects, and the intensity of repression against natural resource activism. However, this report firmly establishes the correlation between the large-scale extraction of natural resources and heightened attacks on activists addressing natural resource governance. This insight is particularly frightening in light of the thirst for natural resources that will continue to prevail in the foreseeable future. Secondly, authoritarian values are on the rise, resulting in lower tolerance for pluralism and restrictions on both individual freedoms and collective rights.

The cases brought together in this report represent the tip of the iceberg. There are many more. The replication of repressive policies and practices from state to state suggests that nations are quickly learning from one another the most effective methods to stifle independent civil society.

Although impunity and indifference towards human rights abuses are nothing new, it is concerning that they are now major drivers of physical harm to natural resource activists. With indigenous and women human rights defenders (WHRD) particularly hard hit, various protection initiatives are being launched. Compared to their non-indigenous counterparts, indigenous activists face additional threats as members of impoverished, structurally disadvantaged groups that are discriminated against and frequently isolated. In many countries, when WHRDs do similar work to their male colleagues, they encounter additional threats and obstacles on account of their gender, including stigma, social rejection, gender-based threats and sexual violence. As layers of discrimination overlap, indigenous and women activists appear to be the most at risk, a reality increasingly acknowledged by organisations providing support to threatened human rights defenders.¹⁰⁹

The protection and enforcement of human rights – including freedoms of association, peaceful assembly and expression – are primarily the responsibility of the state. Yet other public and private actors – corporations and international financial institutions, and CSOs – also have an important role. This report therefore makes specific recommendations to each. Governments need to provide an enabling civil society environment. Private companies and financial institutions need to respect international and human rights standards, including the need to grant free, prior and informed consent. For civil society, there is no end in sight in the work to keep governments and private companies accountable, and bring fellow activists together.

Recommendations to governments

Align domestic legislation and policies with international law and best practice

This must include signing, ratification and implementation of the International Covenant on Economic, Social and Cultural Rights, and the Convention Concerning Indigenous and Tribal Peoples in Independent Countries (ILO 169). Restrictive legislation and policies must be repealed in order to improve the space in which natural resource activists operate, in compliance with the commitments of the Busan Partnership for Effective Development Cooperation. Under the partnership, states agree to uphold “an enabling environment, consistent with agreed international rights.”¹¹⁰ When signing international treaties that protect foreign investments, governments must ensure that adequate protection is provided to populations impacted by those investments. Treaties must include mechanisms to investigate and remedy violations against natural resource activists.

Domestic legal frameworks that govern natural resource exploitation need to be strengthened. It is essential that they guarantee substantive rights to land tenure, access to information, labour and the environment, with special attention to marginalised groups.

States must ensure that public law enforcement bodies and the judiciary are resourced sufficiently to operate effectively and independently. This will help preclude the use of private security companies and protect natural resource activists under threat. It also enables impartial investigations into allegations of corruption and illegalities in the natural resource sector, and prosecution of those who carry out violence against activists.

Actively foster a strong civil society

All governments should subscribe to and consolidate participation in multi-stakeholder initiatives that encourage civil society participation in the governance of natural resources, such as EITI and the Open Government Partnership (OGP). States that already participate in EITI should promptly address and remediate violations of the Civil Society Protocol.¹¹¹

The Civic Charter establishes a framework for citizens’ participation based on the recognition of the rights of association, assembly, expression and information, and the rights to genuine participation, financial support and opportunities for cooperation.¹¹² Governments should endorse the charter, and refrain from defaming natural resource activists – instead acknowledging the importance of their work in pursuit of the public interest.

Ensure companies respect human rights

Governments must develop, in public consultation, binding rules that ensure private actors that finance or operate natural resource projects abide by international and domestic human rights norms. Regulations should include encouragement to companies to implement the UN Guiding Principles on Business and Human Rights. Authorities should encourage individual corporations and institutions not wanting to be identified as instrumental to human rights violations to distance themselves from those suspected of involvement in mistreating local populations and HRDs.

Communities’ right to give or withhold free, prior and informed consent to natural resource projects must be recognised by business. Governments should establish national development strategies that secure indigenous peoples’ rights to sustain their livelihoods.

Demand that fellow governments respect and protect human rights defenders

States should prompt regional bodies in Asia and Africa to adopt similar mechanisms to those of the Inter-American Commission on Human Rights¹¹³, to provide emergency protection measures to human rights defenders.

Recommendations to companies and investors

Abide by international human rights and environmental standards

It is paramount that companies and investors in natural resource exploitation respect internationally accepted human rights and environmental standards. Companies must implement the UN Guiding Principles on Business and Human Rights, the Voluntary Principles on Security and Human Rights and other international and regional human rights standards. This includes conducting due diligence checks on supply chains in relation to human rights and environmental abuses. Management must emphasise the respect of human rights as a core principle of doing business.

Nurture participation and constructive relations with civil society

Companies must disclose information related to planned or ongoing natural resource projects in a timely and accessible way, and support constructive dialogue with natural resource activists – including through participation in EITI. They should establish credible and participative mechanisms to anticipate, mitigate and redress human rights abuses related to natural resource exploitation. Investments in projects that have not received explicit free, prior and informed consent by affected communities should be suspended or cancelled, in accordance with international law. Companies and institutions should never use judicial harassment to impede the actions of natural resource activists.

Recommendations to civil society

Hold governments and business to account

Civil society must raise awareness about existing international, regional and national binding and non-binding environmental and human rights safeguards. Advocacy should press for the adoption of binding rules at all levels to strengthen business and investor compliance with international human rights and environmental regulations. Participation in multi-stakeholder initiatives, such as the EITI and OGP, must also be promoted and CSOs must ensure it enables strong protection mechanisms for local natural resource activists. Civil society should develop local-level capacity to research, monitor and document cases of repression against activists – including through building on examples from other countries or regions.

Create strong, broad support networks for activists

To help protect threatened natural resource activists, civil society must develop local and international support groups and rapid response mechanisms. These should include close working relationships with journalists and their organisations at domestic, regional and global levels. Wider national solidarity platforms are also important, to involve other civil society groups, such as youth organisations, women's groups and community-based organisations working on issues such as education or health. Brought together, these groups can share best practices for dealing with increasing restrictions on civic space. Civil society groups should seek pro-bono legal advice and other forms of support from emergency funds such as LifeLine.¹¹⁴

Abbreviations

ACC

Amadiba Crisis Committee

AI

Amnesty International

CCIC

Caucasus Civil Initiatives Center

CIVICUS

CIVICUS: World Alliance for
Citizen Participation

COPINH

Consejo Cívico de Organizaciones
Populares e Indígenas de Honduras

CPT

Brazil's Pastoral Land Commission

CSO

Civil society organisation

CSP

Charities and Societies Proclamation

EITI

Extractive Industries
Transparency Initiative

FAO

Food and Agriculture Organization
of the United Nations

FIDH

International Federation for
Human Rights

FLD

Front Line Defenders

FPIC

Free, prior and informed consent

GW

Global Witness

HRD

Human rights defender

HRLC

Human Rights Law Center

HRW

Human Rights Watch

IACHR

OAS' Inter-American
Commission on Human Rights

ICNL

The International Center
for Not-for-Profit Law

ICSC

International Civil Society Centre

ILC

International Land Coalition

INGO

International non-governmental
organisation

ISHR

International Service for
Human Rights

LAC

Latin America and the Caribbean

MALOA

Malen Land Owners and
Users Association

NGO

Non-governmental organisation

NRGI

Natural Resource
Governance Institute

OGP

Open Government Partnership

OHCHR

Office of the United Nations' High
Commissioner for Human Rights

OMCT

World Organisation Against Torture

PBI

Peace Brigades International

PWYP

Publish What You Pay

UDEFEGUA

Unit for the Protection of Human
Rights Defenders in Guatemala

UN

United Nations

US/USA

United States

USAID

United States Agency for
International Development

WHRD

Woman human rights defender

WOLA

Washington Office on Latin America

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- ¹ Cf. CIVICUS, *Civil Society Watch Report*, June 2016, <http://goo.gl/EZKaM>, and CIVICUS, *CIVICUS Monitor Findings Report*, October 2016, <http://goo.gl/S7p8kd>.
- ² For a comprehensive analysis of this legal trend, see Carothers, Thomas and Saskia Brechenmacher (2014) *Closing Space*, Carnegie Endowment for International Peace, <http://goo.gl/WYRe66>.
- ³ GW (2016) *On Dangerous Ground*, <http://goo.gl/UFtW41>.
- ⁴ CIDH, "Derechos de defensores y defensoras de derechos humanos," <http://goo.gl/tz9h4>.
- ⁵ For more information about LifeLine, see: <https://www.csolifeline.org/>.
- ⁶ For a recent example, see FLD (2016) *Annual Report*, <http://goo.gl/YiCMrm>. GW launched an annual publication on the killings of environmental and land activists in 2012; the latest is based on data for 2015 and can be found in <http://goo.gl/UFtW41>. The Business & Human Rights Resource Centre's database is available at <http://goo.gl/G7BkMD>. See also CIVICUS (2013) *Global Trends on Civil Society Restrictions*, <http://goo.gl/xXcWNn>; A/ HRC/29/25, *Report of the Special Rapporteur on the rights to freedom to peaceful assembly and association, Maina Kiai*, <http://goo.gl/jKzuvl>; and A/71/281, *Report of the Special Rapporteur on the situation of human rights defenders*, <http://goo.gl/Tlzczg>.
- ⁷ For a regional report with a wide focus on HRDs, see CIVICUS (2016) *Threats to civic space in Latin America and the Caribbean*. For reports covering violations stemming from environmental conflicts either globally, regionally or in a subset of countries, see ICNL (2016) "Environmental Advocacy: Challenges to Environmental Groups to Assemble, Associate and Express their Opinion," *Global Trends in NGO law* Vol. 7 No. 1; Article 19 (2014) *A Dangerous Shade of Green. Threats to Environmental Human Rights Defenders and Journalists in Europe*, <http://goo.gl/h4Y7p6>; Article 19 (2016) *A Deadly Shade of Green. Threats to Environmental Human Rights Defenders in Latin America*, <http://goo.gl/j3ITkd>. Some reports have focused on specific industries in a subset of countries – among them Defend Defenders (2012) *Only the Brave Talk about Oil. Human Rights Defenders and the Resource Extraction Industries in Uganda and Tanzania*, <http://goo.gl/RdJxF2>. GW's publications, in turn, have focused on killings of environmental and land defenders, sometimes with a spotlight on a specific country. These include GW (2012) *A Hidden Crisis?*, <http://goo.gl/Z8Ddff>; GW (2014) *Deadly Environment*, <http://goo.gl/zCKLfg>; GW (2015) *How many more?*, <http://goo.gl/HX3xHP> and GW (2016) *On Dangerous Ground*, <http://goo.gl/UFtW41>.
- ⁸ For these and other cases, see *In Defence of Life*, a 2016 documentary film by the Gaia Foundation, available in <https://vimeo.com/162669257>.
- ⁹ The campaign "Keep it in the ground," supported by The Guardian, is a good example of activism in favour of disinvestment from fossil fuels. Cf. <http://goo.gl/x4xkvH>.
- ¹⁰ The concept of FPIC was shaped in relation to indigenous communities' rights. According to the Declaration on the Rights of Indigenous Peoples, states are required to consult and cooperate in good faith with the representative institutions of indigenous communities in order to obtain their free, prior and informed consent before adopting and implementing any measure or policy affecting them. This specifically includes any project affecting indigenous peoples' rights to land, territory and resources, including mining and all other forms of extraction or exploitation of natural resources. Cf. OHCHR, September 2013, "Free, Prior and Informed Consent of Indigenous Peoples", in <https://goo.gl/PDHJYB>. Although the idea of FPIC is closely linked to the development of indigenous peoples' rights, the example of coal seam gas extraction in Australia shows how the lack of adequate consultation can lead to significant resistance among citizens who are not part of the concerned ethnic minority. This story is told in the 2015 documentary film *Frackman*.
- ¹¹ According to the Resource Governance Index, less than 20 per cent of oil, gas and mining major businesses have satisfactory transparency and accountability records. Cf. NRG, *Resource Governance Index*, <http://bit.ly/1rCftLU>.
- ¹² "South African police shoot dead striking miners," The Guardian, 17 August 2012, <https://goo.gl/24jCb>.
- ¹³ "FACTSHEET: Abuse by Barrick Gold Corporation," EarthRights International, n/d, <https://goo.gl/wqGSCL>.
- ¹⁴ United Nations (1966) *International Covenant on Economic, Social and Cultural Rights*, <http://goo.gl/NSBJVw>.
- ¹⁵ ILO (1989) *Indigenous and Tribal Peoples Convention* (No. 169), <http://goo.gl/LNR2ur>.
- ¹⁶ Cf. OHCHR (2011) *Guiding Principles on Business and Human Rights*, <http://goo.gl/4KbqET>; *Voluntary Principles on Security and Human Rights*, <http://goo.gl/MXTpVH>.
- ¹⁷ The case started in the early 1990s with two class action lawsuits filed in the United States (USA) by Ecuadorian citizens under allegations that the company's operations had polluted rainforests and rivers in both Ecuador and Peru. As these lawsuits were dismissed in 2002, judicial proceedings were initiated in Ecuador, triggering a process that would last for more than a decade and would involve countless judicial inspections, independent expert recommendations, international arbitration and more lawsuits filed in both the USA and Canada. Cf. "Texaco/Chevron lawsuits (re Ecuador)," Business & Human Rights Resource Centre, n/d, <https://goo.gl/kYtIRa>.
- ¹⁸ In 2006, Brice Mackosso and Christian Mounzeo, founders of the PWYP platform in Congo Brazzaville, were jailed. Less than a year later, Dr Sarah Wykes, investigator for Global Witness at the time, was arrested while doing research on the oil sector in Angola. Two founding members of the PWYP coalition in Gabon, George Mpage and Marc Ona, were detained in 2008.
- ¹⁹ There is, however, a precedent of an indigenous community – the Mayagna Awas (Sumo) Tingni Community in the Atlantic coast of Nicaragua – resorting to an international tribunal (the Inter-American Court of Human Rights) to uphold their right to land in the face of the national state's failure to demarcate communal lands. Cf. "Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua [ENG]," ESCR-Net, <http://goo.gl/EFnGR>. For an overview of current global trends on land rights, see Feiring, Birgitte (2013) "Indigenous peoples' rights to lands, territories and resources," ILC, Rome, <http://goo.gl/A4stJf>.
- ²⁰ Cf. Diamond, Larry (2016) "Democracy in Decline", in *Foreign Affairs*, July/August, <https://goo.gl/XX00Wri>; Klaas, Brian (2016) *The Despot's Accomplice. How the West is aiding and abetting the decline of democracy*, London, Hurst.
- ²¹ This has been the case not only in Honduras and Guatemala, two of the best-known cases, but also in Peru, among other countries. Cf. "Environmental concerns as Peru cuts red tape for mining," Climate Home, 18 July 2014, <http://goo.gl/7YE4iO>.
- ²² "Ecuador Adopts Rights of Nature in Constitution," Global Alliance for the Rights of Nature, n/d, <http://goo.gl/xNQeH9>; "Ecuador drills for oil on edge of pristine rainforest in Yasuni," The Guardian, 4 April 2016, <http://goo.gl/gyHxHC>.
- ²³ Cf. "The reindeer herders battling an iron ore mine in Sweden", BBC News, 30 July 2014, <http://goo.gl/NUOw4W>.
- ²⁴ For a working definition of civic space, see CIVICUS (2015) *Consultation Document and Southern African Pilot Report. The Civic Space Monitor*, <http://goo.gl/IBR6mW>.
- ²⁵ Cf. UN (1948) *Universal Declaration of Human Rights*, in <http://goo.gl/fzAKjg>; UN (1966) *International Covenant on Civil and Political Rights*, in <http://goo.gl/49cRA2>.
- ²⁶ Cf. CIVICUS, *Civil Society Watch Report*, 2015 and 2016 editions, available respectively in <http://goo.gl/o6iGZI> and <http://goo.gl/EZKaM>.
- ²⁷ CIVICUS (2016) *State of Civil Society Report*, <http://civicus.org/index.php/en/socs2016>.
- ²⁸ ICNL (2016) "Environmental Advocacy: Challenges to Environmental Groups to Assemble, Associate and Express their Opinion," *Global Trends in NGO law* Vol. 7 No. 1, <http://goo.gl/xYSgWX>; CIVICUS (2016) *Threats to civic space in Latin America and the Caribbean*.
- ²⁹ As defined by the World Justice Project (WJP), the rule of law involves four principles: "1-The government and its officials and agents as well as individuals and private entities are accountable under the law; 2-The laws are clear, publicized, stable, and just; are applied evenly; and protect fundamental rights, including the security of persons and property and certain core human rights; 3-The process by which the laws are enacted, administered, and enforced is accessible, fair, and efficient; 4-Justice is delivered timely by competent, ethical, and independent representatives and neutrals who are of sufficient number, have adequate resources, and reflect the makeup of the communities they serve." Cf. <http://worldjusticeproject.org/what-rule-law>.
- ³⁰ A distinction between the rule of law and the rule by law has been made specifically about China, but may apply to many other countries. Cf. "Rule of Law' or 'Rule by Law?' In China, a Preposition Makes All the Difference," The Wall Street Journal, 20 October 2014, <http://goo.gl/Xj5Qvf>.
- ³¹ For a comprehensive analysis of this legal trend, see Carothers, Thomas and Saskia Brechenmacher (2014) *Closing Space*, Carnegie Endowment for International Peace, <http://goo.gl/WYRe66>.
- ³² "El Gobierno disuelve Fundación Pachamama", Ecuador en Vivo, 4 December 2013, <http://bit.ly/2cLvUeK>; "Presidente Correa defiende clausura de Fundación Pachamama," La Hora, 7 December 2013, <http://goo.gl/Ll6C2C>; "Ecuador cierra una ONG que respaldaba la lucha antipetrolera en el Amazonas," El País, 11 December 2013, <http://goo.gl/FU4ADv>.

- ³³ "The government vs the environment: lawfare in Australia", The Conversation, 18 August 2015, <https://goo.gl/wgfGsP>.
- ³⁴ "Green activist ban on Turnbull agenda", Echo, 25 October 2016, <http://goo.gl/e2gg57>.
- ³⁵ "Pipeline Reversal Protesters Muzzled", Canadian Center for Policy Alternatives, October 2013, <https://goo.gl/OAgivx>.
- ³⁶ Cf. EG Justice (2011) *Disempowered Voices. The Status of Civil Society in Equatorial Guinea*, in <http://goo.gl/R4wT0r>.
- ³⁷ "Press Statement on the suspension of CEID by the Ministry of Interior of Equatorial Guinea," CEID, 23 March 2016, <http://goo.gl/7gta2g>.
- ³⁸ The EITI is a global standard to promote the open and accountable management of natural resources. It is sustained by a coalition of governments, companies and civil society. For more information, see www.eiti.org. Equatorial Guinea was excluded in 2010 but resumed efforts to join the EITI in 2013. CEID was represented in EITI's national multi-stakeholder group in 2006-2010 and again since 2015.
- ³⁹ "COMUNICADO sobre la reanudación de las actividades," CEIDGE, 12 September 2016, <http://goo.gl/AZ0PdO>.
- ⁴⁰ In Latin America, the prohibition trend was pioneered by Venezuela in 2010, when the Law for the Protection of Political Liberty and National Self-Determination prohibited foreign funding for individuals, political organisations, non-profits or any organisation pursuing political objectives or advocating for political rights. In Ecuador, in turn, President Correa issued a decree in 2011 prohibiting international CSOs registered in Ecuador from receiving funds from bilateral and multilateral sources for their activities in the country; in 2012, the operations of 26 foreign non-governmental organisations (NGOs) were shut down, and another 18 were threatened with closure if they did not comply with newly issued regulations mandating the alignment of their activities with the government's planning priorities.
- ⁴¹ "Bolivian President Evo Morales orders expulsion of USAID," CNN, 1 May 2013; <http://goo.gl/zGQYxv>; "Bolivia expels Danish NGO IBIS for meddling," Gulf Times, 20 December 2013, <http://goo.gl/LlFs8X>.
- ⁴² "Disputed 'foreign agent' law shot down by Kyrgyzstan's parliament," The Guardian, 12 May 2016, <http://goo.gl/bTlrf4>.
- ⁴³ "Kazakhstan Considering a New NGO Law," The Diplomat, 19 October 2015, <http://goo.gl/TD2m3z>.
- ⁴⁴ "Ethiopia: The 2009 Charities and Societies Proclamation as a serious obstacle to the promotion and protection of human rights in Ethiopia," AI, 11 June 2012, <http://goo.gl/9B0BUj>.
- ⁴⁵ "Uganda: Non-Governmental Organizations Bill Becomes Law," Library of Congress, 17 March 2016, <http://goo.gl/aRIRCJ>.
- ⁴⁶ Further amendments followed in 2014 and 2015. For a full account of the crackdown, see CCIC (2016) *Shrinking Space for Civil Society in Azerbaijan*, <http://goo.gl/HtQHTQ>.
- ⁴⁷ Over 20 member organisations of the EITI NGO coalition saw their bank accounts seized in 2014, sometimes along with the freezing of employees' personal bank accounts. Six organisations had money withdrawn from their accounts to cover "tax debts" resulting from penalties imposed by the Prosecutor General Office without prior tax investigation.
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Cover photo: Demonstrators face riot police during the UN Conference on Sustainable Development (Rio+20) at Rio Centro, in Jacarepagua, western Rio de Janeiro. Indigenous peoples from five countries told the UN Rio+20 summit that the green economy is a crime against humanity that dollarises Mother Nature and strips communities of their rights. Native peoples gathered in Rio for a counter-summit issued a declaration blasting the goals pursued by world leaders attending the official UN Rio+20 summit on sustainable development.

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