

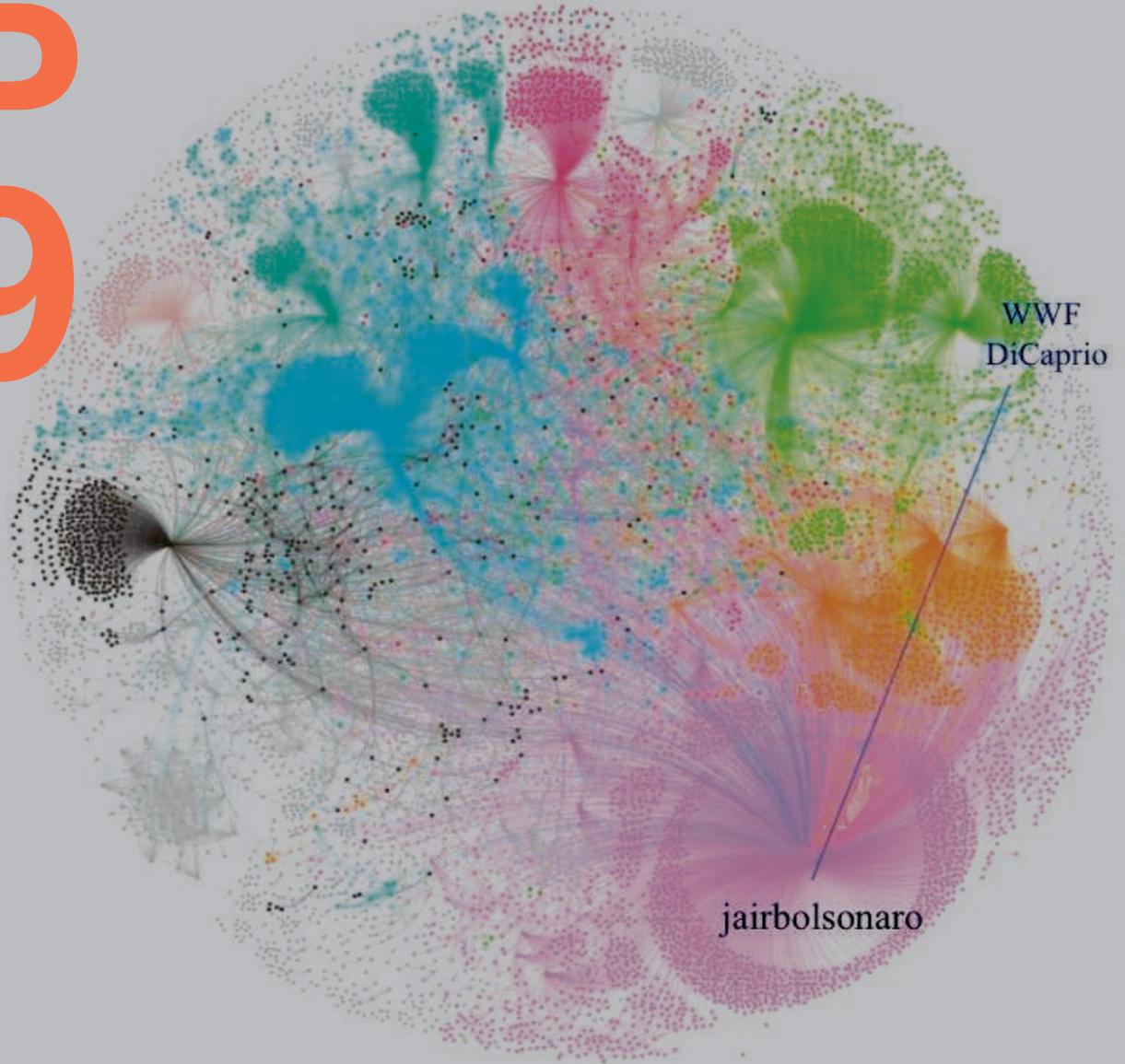


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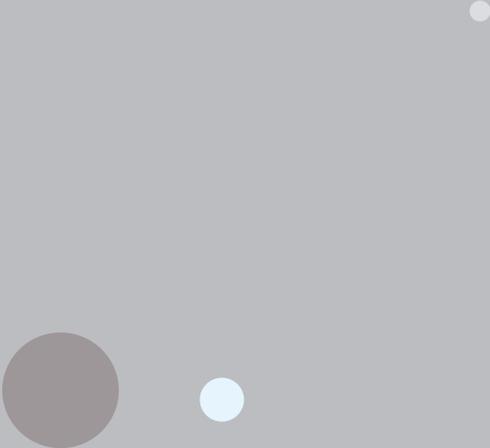


The 'Agora' is under attack:

Assessing the closure of civic space
in Brazil and around the world

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The *'Agora'* is under attack:

Assessing the closure of civic space
in Brazil and around the world

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Introduction

Many countries are experiencing a dramatic closure of civic space. Populist and authoritarian governments on the left and right are increasingly exerting influence over artists, activists, journalists and scholars, demonizing human rights and science, harassing and criminalizing political opponents, and implementing repressive legislation to chilling effect. In low, middle and upper-income countries alike, a wide range of civil society groups fear for their own safety. Civic institutions – from universities and think tanks to front-line human rights organizations and independent and investigative media groups – are reporting an uptick in threats and intimidation, especially from extremist politicians and their radical supporters.

The perception that “civic space” is closing is now widely accepted by the international human rights community.¹ Over the past decade, organizations such as the Carnegie Endowment for International Peace², the Center for Strategic and International Studies³, CIVICUS⁴, and others have drawn attention to the problem. Philanthropic groups have issued multiple reports on the threats that “civic space” and its actors face.⁵ New organizations devoted exclusively to monitoring the phenomenon are emerging.⁶ Since 2013, the United Nations Human Rights Council has launched a number of resolutions and a guide on the importance of protecting and expanding civic space.⁷ Although some commentators believe that the term is too all-encompassing to be analytically useful,⁸ there is a growing body of research demonstrating the ways civil society is being “squeezed”.⁹

But what, exactly, does the closure of civic space mean? What are its implications for democracy more generally? And most importantly, what can civil society groups do about it?

Civic space is an abstract social science construct. It is described by Antoine Buyse as the layer between state, business and family in which citizens organize, debate and act.¹⁰ A healthy and open civic space implies that groups and individuals within civil society are able to organize, participate and communicate without hindrance or intimidation, and in doing so, can claim their rights and influence the political and social structures around them. The concept borrows from the traditional definitions of civil society and of the public sphere, but it goes beyond.¹¹ Civic space also accounts for the positive interactions between civil society and governments, which in representative democracies tends to contribute to more informed and accountable decision-making. According to CIVICUS, three fundamental freedoms – of association, assembly and expression – define the boundaries of civic space. Where these freedoms are infringed, civic space is constrained or contracted.

Civil society organizations, including trade unions, faith-based organizations, indigenous networks, NGOs and think tanks, operate in the civic space alongside independent media groups, universities and other types of non-governmental entities.¹² Civil society organizations have a wide array of mandates including, for example, providing knowledge and enhancing oversight over governments and, more recently, corporations and the business community. Very generally, such groups promote more accountability, transparency and fair play. Efforts by states to curb or close such groups represent an assault on democratic rights and freedoms, guaranteed in the International Human Rights

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Charter and national constitutions in several countries, including in Brazil. These actions can also harm the design and implementation of informed, inclusive and plural public policies and service provision, thus jeopardizing the public good.

This article presents a preliminary conceptual framework to describe the closure of civic space. It combines a review of literature together with key informative interviews with leaders from the public, non-profit and business sectors. It offers a cursory test of the framework in the context of Brazil – a country that exited dictatorship in 1985 but that still exhibits signs of authoritarianism, factors which have been aggravated since the election of President Jair Bolsonaro in 2018.¹³

Democratic backsliding

The closing of civic space is more easily described than defined.¹⁴ This is not surprising since many different types of entities and individuals are experiencing “closure” in different ways. In some cases, they are affected by legal measures intended to constrain, disrupt or eliminate civic action. At the same time, civic groups can also suffer extralegal or illegal obstruction, including intimidation, coercion and outright violence. Legal, and extralegal or illegal strategies corrode the ability of civil society organizations, independent media and other types of associations to exert pressure and keep governments accountable and focused on the delivery of the public good.¹⁵

To date, most civic responses to government attempts to “close” civic space have been informed by human rights law. Lawyers have helped civic groups to repeal repressive legislation and appeal decisions in the courts. While the application of human rights law is

essential, it is challenging in many settings where governments are violently cracking-down on the freedoms of expression, association and assembly and are undermining the separation of powers, essential for the republican checks and balances. Moreover, often when extralegal and illegal measures are applied, there may be an absence of material evidence to build a strong case.

The closure of civic space not only threatens human rights, it undermines democracy, informed public policy, and the ability of citizens to hold their governments accountable. While such dangers are present in many societies, it is particularly worrisome in less mature democracies with weaker institutions – press, independent legislative and judiciary powers, and a strong civil society. In such cases, public institutions such as the police, prosecutors, judges may not be operating independently, and laws and decisions are applied selectively. These countries can have a diminished capacity to enforce the Democratic Rule of Law, in which laws are created by the people and for the people, respecting the dignity of the human person, and where all citizens can actively participate in the country’s political discussions.¹⁶

It is not surprising, therefore, that, in parallel to the attacks on the civic space, we are seeing a decline in democracies; in numbers, in integrity and also in quality. It is important to remember that democracy is not a new idea, dating back to the Greeks. However, its implementation, as we know today, is more recent, since the 18th century, with the American Constitution in 1787 - the first democratic constitution in the world.¹⁷ In the span of two centuries (19th and 20th), democracy has spread from one to more than 100 countries. It has also suffered setbacks along the way and continues to face resistance today. However, it remains the best governance system to deliver growth and enhance the public good in comparison to known alternatives - be it the rule of kings, theocracies, dictatorships, or tribal authority.¹⁸

Samuel Huntington popularized the idea that democracy developed in different waves and described the three main ones.¹⁹ Francis Fukuyama foresaw in his 1989 article “the End of History” the fourth democratic wave and the victory of liberal democracies and capitalism.²⁰ But in 2017, he recognized that the world was moving from a “democratic recession” to a “democratic depression”.²¹ Thus, the fundamental question at the moment is if this decline is just a deviation from the fourth democratic wave or a terminal decline of democracies.

The weakening of a democracy can go unnoticed if it happens gradually, without drastic disruptions, such as in a military coup. The case of Hungary, for example, illustrates how real this possibility is.²² In 2020, different international organizations lowered Brazil's democracy score, from a liberal democracy to an electoral one.²³ Still, some political scientists and authorities continue to claim that Brazil's democracy is doing well.²⁴ They argue that the system of checks and balances and the separation of state powers can limit attempts of abuse of power, including those by the president of the Republic.

In general, these analyses are focused on the legal procedures that have been used by Congress, the Federal Prosecution Office or the Judiciary.²⁵ From the perspective of traditional political science analysis, the closure of the civic space is sometimes not taken into account when assessing the health of a democracy. As a result, the population may perceive the progress of authoritarian government too late, and reversing the process may be a challenge.

In Brazil, the intensification of attacks on the Supreme Court by the President's radical supporters, in early 2020, alongside several demonstrations in support of a military coup made national and international headlines.²⁶ But still, there is limited attention and analysis on the consequences of the closure of civic

space. The fact is that in Brazil there are daily attacks on rights and freedoms that are essential for the full exercise of democracy and that are guaranteed in the Brazilian Federal Constitution, especially in articles one to six.



The closure of civic space

Civic space is closing in many regions for a variety of reasons. For one, the global war on terror since 2001 initiated restrictions on civil liberties in the U.S. as well as in parts of Central Asia, the Middle East and North Africa.²⁷ Under the guise of “national defense”, a powerful set of justifications that standardize these restrictions were put in place. More recent geopolitical shifts from hardline governments have in some cases subverted and subordinated human rights to nationalist imperatives, including in the west.

Meanwhile, the populist turn of some governments in the U.S., Western Europe, South and Southeast Asia and Latin America has also reduced tolerance for democratic freedoms and human rights, especially for minorities. Racist and xenophobic, anti-immigrant attitudes and attacks on the rights of indigenous and LGBTQY groups are becoming increasingly common²⁸. This can be demonstrated with the cases of leaders in Brazil, Hungary, India, Poland, Russia, the Philippines, the US and Venezuela. Civil societies are frequently targeted and “otherized” as an explicit strategy of political mobilization.²⁹ These are some of the places where civil society organizations, the press, and scientific and academic institutions have become the target of attacks as part of an explicit political mobilization strategy.³⁰

Many states are growing more sophisticated in how they restrict civic action and shut down civic space. New technologies - from highly

sophisticated malware that infects phones and computers to social media bots, fake profiles, and digital mobs are increasingly deployed against targets around the world. The digital space is increasingly fraught, exposing civic actors to a growing array of threats, from monitoring and surveillance to infiltration.³¹ The use of digital tools to spread hate speech to larger audiences, incite violence, and purposefully destroy the reputation of individuals and organizations can occur within the protections of free speech legislation. Today, the spread of disinformation through social media platforms is widely seen as one of the greatest threats to democracy and human rights.³²

Mapping threats

It is possible to separate the threats to the closure of civic space into different categories. Table 1 describes a number of strategies and tactics deployed by governments, and sometimes also by their extremist support groups, to restrict the operations of a wide range of CSOs, media outlets, universities, artists and other non-governmental groups. It includes “legal”, “illegal” and “extralegal”³³ actions. While still in development, the framework is novel in how it reveals a more diverse array of indicators than freedom of expression, association and assembly, the conventional focus of criminal justice and human rights law. It exposes many of the less visible dynamics of the closure of civic space, precisely because they are hard to measure, under-studied and thus neglected. It also offers a new lens through which the health of democracies can be assessed, complementing more traditional evaluations of institutional procedures and capacities that tend to be the focus of political scientists.³⁴

While comprehensive, the table is far from exhaustive. For example, the categories and tactics listed at the framework may not fully capture the many ways in which extreme politicians routinely attack CSOs and other rights groups for protecting the rights of minorities and vulnerable groups. Nor do they fully show how these same politicians seek to strip refugees, asylum seekers, indigenous people, inmates and LGBTQY individuals, for example, of their rights.

It is important to recall that some elected officials are adamantly convinced that human rights get in the way of law and order or economic development. Moreover, it is critical to appreciate precisely “who” is involved in violent actions to close civic space. It is often the case that violence is not perpetrated directly by state agents in their official capacity, but by paramilitary, militia, gangs, private security and others, emboldened by the hateful rhetoric of a president and other senior political figures. In these situations, even if direct attributions of responsibility of state agents cannot be made, it is important to map the cases and identify the trends in order to better understand the relationship between actual violent acts and hateful rhetoric, and what can be done to protect the targeted individuals and groups.

Table 1: Typology of legal, illegal and extra-legal strategies and tactics used to close civic space

Strategies	Description	Examples of Tactics / Actions
I. Cooptation	Cooptation is the process of absorbing members who seek change to work with elites, demobilizing the opposition (Selznick 1948, Piven and Cloward 1977).	offer of privileged relationship, including access to public contracts and funding, if given unrestricted support
II. Coercion	Coercion is the use of threats to influence another's behavior by limiting choice (Schelling 1966).	veiled or open threat to dismiss or disempower public servants and political appointees if they don't adhere to government's false narratives or wrongdoings veiled or open threat to suspend ongoing partnerships and/or public funding in light of public criticism
III. Fake News and Disinformation Campaigns	Fake news are false stories circulated on the news, social media, and spread on the internet, which try to appear as real news. There are six types: news satire, news parody, fabrication, manipulation, advertising, and propaganda (Tandoc, Lim, and Ling 2007). Disinformation is false information spread deliberately to cause public harm or for profit, going beyond fake news (EC 2018).	mass production and dissemination of false content to earn political influence hiring bloggers, using fake profiles, bots and other digital tools to create and spread false stories using public money or resources from supporting groups deliberate spread of disinformation campaigns to distract or deceive attacks against facts and science
IV. Censorship (veiled or overt)	Censorship refers to "the policy of restricting the public expression of ideas, opinions, conceptions and impulses which have or are believed to have the capacity to undermine the governing authority or the social and moral order which that authority considers itself bound to protect." (Laswell, 1930)	Intent to provoke self-censorship of individuals that are targeted online or offline creation of obstacles to access public information classification or restriction of publications and documents direct intents to disqualify research results defunding of cultural projects not aligned with government's views filtered content or close down of internet vastly enforced censorship of media, research, cultural manifestations and debate

continuation

Strategies	Description	Examples of Tactics / Actions
<p>V. Intimidation and Harassment</p>	<p>Intimidation refers to direct or indirect actions against others to prevent them from continuing their work or to induce fear of an attack (CIVICUS 2019). Harassment is legal or physical actions or behaviors that demeans, humiliates or embarrasses a citizen when expressing critical opinions (CIVICUS 2018).</p>	use of state security forces and intelligence apparatus to intimidate opponents
		persecution and intimidation of activists, artists, civic leaders, journalists, and scientists
		Blackmail
		public targeting / harassment of institutions by high-level authorities
		public targeting / harassment of activists, artists, civic leaders, journalists, and scientists by high level authorities
		misogynist attacks towards women with public profile
		dehumanizing / defaming / delegitimization campaigns against individuals, groups or institutions (direct or indirect action)
		online organized attacks and campaigns against individuals, groups or institutions (bots and digital mob mobilization)
		threats to cancel public concessions of independent media channels
<p>VI. Infringement of Privacy (State Surveillance)</p>	<p>Infringement of Privacy refers to the violation of the fundamental human right to privacy, which underlines that “no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation.” (Universal Declaration of Human Rights, 1948). State Surveillance is the collection of information, including the monitoring, tracking, and identification, to the administration of subject populations, supervised by officials and administrators, hinged to some specific purpose (Giddens 1984, Lyon 1994). It usually inhabits a shadowy realm of public affairs (Starr et al).</p>	illegal tapping
		digital media monitoring for profiling, harassment and intimidation
		closure of accounts, websites, servers
		hacking profiles to intimidate or harass, or to use private profiles in digital mob campaigns
		misuse of private citizens’ data on micro-targeting disinformation campaigns, and other digital actions without permission
		illegal monitoring of opposition, including protest organizers

Strategies	Description	Examples of Tactics / Actions
<p>VII. Civil and political rights violations</p>	<p>Violations of political rights include denial of the right to a fair trial and due process; and rights of participation in civil society and politics such as freedom of association, the right to assemble, and the right to vote (Dahl 2005). Violations of civil rights include discrimination on grounds of race, gender, sexual orientation, national origin, color, age, political affiliation, ethnicity, religion, and social origin; and restrictions of individuals' freedom. (ICCPR 1976).</p>	<p>restrictions or ban on public protests / demonstrations</p>
		<p>constraints for the incorporation, registration, operation and lifecycle of CSOs</p>
		<p>shut down of CSOs who resist to conform to authoritarian or draconian rules</p>
		<p>de-registration or cancellation of licenses of operation for CSOs who comply with the law</p>
		<p>invasion / destruction of CSOs offices</p>
		<p>seizure of property</p>
		<p>expulsion and prohibition to operate at a certain country</p>
		<p>travel bans</p>
		<p>illegitimate legal investigations</p>
		<p>fomenting discrimination and infringements of the rights of minorities and vulnerable groups</p>
<p>fomenting religious intolerance</p>		
<p>VIII Restrictions on Civic Engagement and Participation</p>	<p>Restrictions to any forms of individual or collective work to solve community problems and to address issues of public concern (civic participation) as well as any forms of following, having knowledge, beliefs, opinions and attitudes on public issues (civic engagement) (Barrett and Brunton-Smith 2014), especially when contributing and interacting with policy design, monitoring and/or decision-making process.</p>	<p>exclusion of language on civil society participation in national and international resolutions</p>
		<p>hardening of rules to allow for civil-society access to National Congress</p>
		<p>de-authorization of state institutions to work with NGOS</p>
		<p>penalization of public officers who disobey instructions of cutting access to civil society</p>
		<p>shut down of participatory councils and participatory mechanisms</p>

continuation

Strategies	Description	Examples of Tactics / Actions
<p>IX. Funding Restrictions</p>	<p>Restrictions on civil society’s ability to access foreign funding through laws that limit or prohibit external support, requirements that include governmental approval, measures against international organizations that provide CSOs support, as well as administrative and practices or extralegal measures (Wolff and Poppe 2015) coordinated by governments against independent CSOs. Restrictions can also apply for domestic funds.</p>	<p>government institutions stop granting authorization for CSOs to participate at projects of, and receive funds from international cooperation donors</p>
		<p>overly broad application of anti-money laundering and counterterrorism measures</p>
		<p>using defamation, treason, and other laws to bring criminal charges against recipients of international funding</p>
		<p>restrictions for domestic and international funding and/or prohibition of specific donors</p>
		<p>requirement of advance government approval and/or international funds routed through government-controlled entities</p>
		<p>capping the amount of international funding per CSO</p>
		<p>restriction of activities undertaken with international funding, including content-based restrictions (e.g. ban on human rights work or ‘political activity’)</p>
		<p>taxation of international funds</p>
		<p>categorizing CSOs that receive international funding as ‘foreign agents’</p>
		<p>burdensome procedural requirements</p>
		<p>freezing or seizure of funds</p>
<p>prohibition to receive international funding</p>		
<p>X. Physical Violence</p>	<p>Physical Violence is the intentional and direct infliction of harm on people, from physical suffering or bodily harm to violent death (Kalyvas 2006). In the context of this research, acts of physical violence can be perpetrated by state or non-state agents, including paramilitary, militia, gangs, private security and others emboldened by the hate rhetoric of political figures to get rid of opposition</p>	<p>violent responses by the state to protests</p>
		<p>denial to protect those under threat</p>
		<p>violent attacks against minorities and vulnerable groups</p>
		<p>threats of physical violence by state and non-state actors</p>
		<p>illegal imprisonment of civic leaders</p>
		<p>Torture/ ill-treatment</p>
		<p>forced disappearance</p>
		<p>assassination / extra-judicial killings of human rights’ defenders, civic leaders, and journalists</p>

Strategies	Description	Examples of Tactics / Actions
<p>XI. Constitutional Hardball*</p>	<p>Constitutional Hardball consists of political claims and practices that explore procedures, laws and institutions for partisan gain in ways that, although within the bounds of existing constitutional doctrine and practice, are in tension with pre-established norms. It pushes the bounds of legality, which can undermine shared understanding of democratic norms and the expectation that the other side will comply with them (Tushnet 2004, Levitsky and Ziblath 2018).</p>	<p>excessive use of executive orders to govern, bypassing Congress</p>
		<p>issuing of norms and decrees that contradict the Constitution</p>
		<p>nonconforming with non-written norms that serve to respect the separation of State Powers</p>
<p>XII. Abuse of Power</p>	<p>Abuse of power is when political actors take advantage of their position for personal gain, preventing basic managerial responsibility (Sankowsky 1995).</p>	<p>political interference in ordinances from the Armed Forces that violate laws and/or the Constitution</p>
		<p>political interference in the public administration with nominations and dismissals of public servants to favor private interests</p>
		<p>political interference in nominations of public universities, research centers and participatory councils to impose censorship</p>
		<p>political interference in procedures and nomination of leadership of law enforcement and other independent public agencies to protect private interests</p>
<p>*Even though most of the tactics used on the constitutional hardball and abuse of power categories are not directly infringed against the civic space agents, these tactics diminish accountability, can undermine the separation of powers and the checks and balances that could prevent the tactics described in the other categories to be implemented.</p>		
<p>Sources for the tactics: off-the-record interviews with civic leaders; Buyse 2018; Civicus 2017, 2018, 2019; ICNL; Levitsky and Ziblath 2018; OHCHR; Rutzen, 2015; WEF 2017; World Movement for Democracy</p>		

Table 1 presents a typology with twelve strategies and 73 tactics and actions. This preliminary conceptual framework aims to contribute to a better mapping and understanding of the closure of civic space. The typology was created based on a review of existing literature combined with key informative interviews with leaders from the public, non-profit and business sectors. It was noted that many of the legal strategies pursued with the express purpose of curbing civil society space are reasonably well-documented. But on the other hand, although extralegal and illegal strategies are widely acknowledged, they are often under-investigated and harder to track and to prove.

A worrisome panorama emerges when legal, extralegal and illegal strategies and tactics that are being deployed to curb the civic space are seen together.

The typology may not be applied to all settings experiencing the closure of the civic space. That said, table 1 can serve as one of many tools to help identify and track a range of threats to the civic space from an early stage. It is important to stress that in many contexts legal, illegal and extralegal actions are undertaken simultaneously. In other cases, they may occur at different times and entail different levels of intensity. There are typically a wide range of actors - both state and non-

state - that are involved in their perpetration. And finally, the ways in which civic space is affected can vary over time, since it is, after all, a moving target.³⁵

The case of Brazil³⁶

Brazil offers a test case for the typology presented above. For one, it is a country that has experienced forceful constraints to civil society over the past half century, notably during the dictatorship period between 1964-1985. More recently, in the wake of the election of Jair Bolsonaro in 2018, there are clear signals of an accelerated rolling back of protections and rights of civil society groups. The difference today is that Brazil is a constitutional democracy. Jair Bolsonaro was elected with 55 percent of the vote in the second round in a highly charged and polarized environment. Over 31 per cent of the electorate abstained or nullified their ballot, notably, in a country where voting is compulsory.

In the period after the dictatorship, civic space in Brazil expanded dramatically. Interactions between CSOs and universities with governments became the norm and the resurgence of the independent media pushed an increase in government accountability. Although it is possible to identify attempts from specific governments to coopt, intimidate or restrict certain rights of different groups, checks and balances were being strengthened, and civil society reactions to such measures allowed for a vibrant exercise of democratic rights and freedoms at most times. There was still a lot of progress to be made, but CSOs and universities shared knowledge and took part in the design, monitoring, and at times, the implementation of informed public policy.³⁷ Participation through different channels allowed for the inclusion of minority groups' perspectives in policy making. And the press

was, at most times, a credible voice that exerted pressure and could effectively acquire responses from government officials. This reality changed abruptly since the beginning of Jair Bolsonaro's administration which deliberately chose to cut links with several groups and sectors of society that do not have a total alignment with the administration's thoughts and values.

However, it is important to note that the democratic transition in Brazil was an unfinished job. The transition was negotiated between civilian and military powers upon the assurance of wide and ample amnesties with little or no recognition of the atrocities committed during the authoritarian government and with late and limited accountability to the victims and family members, brought by a National Truth Commission in 2011.³⁸ And unlike in other countries that also lived under long periods of military rule in Latin America, the end of the dictatorship in Brazil did not mean a total break with the influence of the Armed Forces in the social and political life in the country.

Article 142 of the Federal Constitution states that besides protecting the sovereignty of the country, the military can also be called to assure Law and Order by any of the three Republican Powers. The creation of the Ministry of Defense, in 1999, with a markedly militarized structure and where high level representatives of the Army, Air Force, and Navy comprise the minister cabinet is another indication of the military's influence. In reality, the coexistence of traits of authoritarianism with growing nostalgic support for the dictatorship was underway much before 2018.

However, since the lead-up to the presidential election that year, Jair Bolsonaro's campaign broadcasted its intention to crack-down on a wide range of civic groups. Before and since taking office, the president targeted political opponents, the independent media, the judiciary, and even the nation's historical

memory of the dictatorship era.³⁹ Specifically, he called the 1964 military coup that installed a dictatorship a “revolution” and routinely praised torturers from the period.⁴⁰ In fact, 6,157 military personnel occupy civilian positions in the current administration.⁴¹ The number is twice what it was in 2018, when Michel Temer was president and higher even than the combined number of military in civilian positions during the 20 years of the dictatorship period.⁴² Eight positions of the current federal cabinet are occupied by former or serving military staff, not to mention the vice presidency.

The administration has been following, diligently, the playbook of other far-right governments around the world. Throughout his political career and, most importantly, during his presidency Bolsonaro has verbally attacked women and minorities, including LGBTQY and indigenous groups. Jair Bolsonaro was sued and convicted of “moral damages” in 2014 after telling congresswoman Maria do Rosario he wouldn’t rape her because she didn’t deserve it.⁴³ Since he was a congressman, the president – and some of his sons - has been an active follower and proponent of the propaganda and the organizational methods of the North American National Rifle Association in Brazil, and one of the most prominent gun lobby representatives in the Brazilian congress.⁴⁴ Moreover, in a country with over 5,800 police killings in 2019, his discourse defends granting more leeway for police to deploy lethal force.⁴⁵

Immediately after assuming office in January 2019, president Jair Bolsonaro started playing **constitutional hardball**. Under his orders, his administration issued and revoked literally hundreds of decrees and norms in order to appease his base of conservative hardliners, evangelicals, and financial elite, and test the reactions of congress, the judiciary and public opinion.⁴⁶ In a bid to dismantle existing firearms regulations, the federal administration issued ten decrees in 2019, many of them

considered to be illegal.⁴⁷ It is important to highlight that when not rolled back by congress or courts, illegal decrees come into force. This creates legal insecurity and can benefit lobby groups that are, in general, close allies to the government. This is clearly the case of the gun decrees. The sheer number of new norms and decrees also make it harder to assess their legality and contest the illegalities. Some of the changes and its consequences are yet to be detected and understood. But new gun registries and ammunition purchases have skyrocketed since 2019.⁴⁸

In the first months of his presidency he intervened in Ministerial nominations for voluntary public policy councils.⁴⁹ He was the first president since Brazil’s democratic transition to nominate an attorney general that was not listed among the three candidates identified by the Public Prosecutors Office.⁵⁰ Additionally, there is a hypothesis that the Brazilian president may also be using his allies in office to prevent government officials from investigating his personal affairs, which would constitute **abuse of power**. For example, he has personally dismissed ministers and secretaries that challenged his views or had harmed his self-interests in the past.⁵¹ For instance, Sergio Moro, then Minister of Justice and Public Security, left the position, alleging that President Bolsonaro’s will to interfere in the Federal Police to protect his family and friends was against his principles.⁵² The head of the federal police in Rio de Janeiro who holds the responsibility for investigating suspected money laundering accusations against one of his sons, senator Flavio Bolsonaro was also replaced.⁵³ In August, 2020, the structure of Brazil’s Intelligence Agency (ABIN) was modified with the creation of a National Intelligence Center. There is the concern that the Center may function as a “parallel” ABIN, potentially interfering in the investigation of allies or investigating supposed enemies of the President.⁵⁴

Another controversial and illustrative case was the dismissal of the then Minister of Health, Luiz Henrique Mandetta, during the major Covid-19 crisis in Brazil, for prioritizing social isolation over other measures to contain the pandemic in the country.⁵⁵ His successor, Nelson Tech, also left due to his refusal to include a norm to prescribe the medicine chloroquine, which had no scientific backing, in the treatment of all patients infected with Covid-19 in Brazil.⁵⁶ General Eduardo Pazuello, with no relevant experience in the health field took over as Health Minister and brought several other military personnel to fill in key positions.⁵⁷ These measures not only weaken the independent functions of public service but can also undermine the mandate of key institutions, including harming its technical expertise and quality of the public service provision.

Some of the most aggressive actions by the Head of State have been launched against civil society groups, most of which are viewed as hostile to the government's agenda. The president's cabinet has proposed decrees to increase "supervision" and "control" over CSOs and international organizations as well as restrictions to weaken the country's Freedom of Information Act.⁵⁸ ⁵⁹Although civil society groups are pushing back and Brazil's Congress and Supreme Court are rejecting, to date, the most unconstitutional proposals, these and other efforts are helping undermine civil society and engender confusion among public servants and legislators.

These actions reflect at best an ignorance and at worst contempt for democratic rights such as freedom of expression, association and assembly. Yet they are just the tip of the iceberg. The federal government has also sought to dramatically **restrict the participation** of civic organizations in consultations or engagement with the government. For example, dozens of participatory councils established since the 1980s precisely to increase civic space, were closed shortly after the beginning of the new government in 2019.⁶⁰

Among the most affected spaces are the commissions that counted with the participation of indigenous populations and environmental groups. For instance, in February 2020, a decree excluding the participation of indigenous representatives and other social movements from the National Commission of Biodiversity was issued.⁶¹ Another decree extinguished the positions destined to civil society in the deliberative Council of the National Fund for the Environment.⁶² In July 2020, a new internal regiment restricted civil society participation in an Executive Commission to Control Illegal Deforestation and Recovery of Native Vegetation.⁶³ Off the record interviews with senior public servants show that ministers and public representatives were told not to seek inputs from or work with civic groups that are not aligned with the president's platform in several key public policy areas. These restrictions will most likely degrade the design and implementation of informed public policy and diminish government's accountability.

Even more worryingly, since the beginning of the Bolsonaro administration, a range of **harassment and intimidation** strategies to restrain civic debate and opposition have been deployed. Indeed, as publicized by the press, it appears that the so-called "hate cabinet", – where such campaigns are initiated, is operated by some of the president's closest aides, including one of his sons.⁶⁴ Targets include female journalists, scientists, artists, activists and human right defenders, as well as leaders of indigenous groups, among others. Hateful content is delivered through official social media channels – especially Facebook, Twitter, Youtube and WhatsApp – of the president and his allies. It is supplemented with the use of bots, false profiles and the mobilization of a loyal digital mob nurtured for the past decade and crucial to the president's election.⁶⁵ As early as October 30th, 2018, supporters of the recently elected president were called in WhatsApp groups to boycott

journalists, celebrities and intellectuals who spoke out against his candidacy.⁶⁶ The list included more than 700 names, among them the singer Anitta, the actresses Camila Pitanga and Patrícia Pillar, the doctor Dráuzio Varella, the presenters Zeca Camargo and Fernanda Lima, the actors Wagner Moura and Alexandre Nero, the singers Caetano Veloso, Chico Buarque, Gilberto Gil and so many others, who publicly expressed disagreement over his campaign program.

The purpose of these scorched-earth extralegal salvos is obvious. They are intended to dismantle the personal and institutional credibility and reputation of civic actors and encourage some groups to self-censor out of fear of being targeted. They can also generate concrete consequential outcomes. The defamatory digital campaigning has fueled death threats against prominent journalists. For example, the nationally respected columnist Miriam Leitão had her participation in a literary festival in Jaguará do Sul cancelled by the festival's organizers due to threats.⁶⁷ Meanwhile, hate messages inspired by the government's closest allies are believed to have fueled a terrorist attack on the headquarters of the popular comedy troop "Porta dos Fundos".⁶⁸ The reality is that many cases are not publicly reported or disclosed, and they may very well end up in direct acts of **physical violence** perpetrated by non-state actors, and radical supporters of the far-right government. A sad example was the murder of capoeira master and advocate for Afro-Brazilian rights, Mestre Moa do Katendê, who was stabbed 12 times after an argument with a supporter of the hard-right candidate Bolsonaro for president during the election campaign in 2018.⁶⁹

A key target of the Bolsonaro government's ire is the country's independent media.⁷⁰ According to Reporters without Borders, the Bolsonaro family, including the president and his three sons, Carlos, Eduardo and Flávio, promoted 174 attacks against the press in the second trimester of 2020.⁷¹

Indeed, the attacks on the media have been commonplace since the very beginning of his mandate. For instance, the president decided to cancel all government subscriptions to the respected newspaper Folha de São Paulo – though this “mandate” was overruled by the Supreme Court.⁷² In the meantime, Folha's journalists, including Patricia Campos Mello, were also harassed for her articles on the government's widespread use of fake news. She has been a victim of recurrent misogynist attacks by the Bolsonaro clan and his pro-government press allies.⁷³ In fact, misogynist attacks against female journalists have been commonplace and led to denunciations against president Bolsonaro at the UN Human Rights Council by 13 organizations.⁷⁴ Moreover, private companies were also threatened with retribution if they continued advertising in the newspaper.⁷⁵ The Globo Organizations, the country's largest media group are also a constant target of aggressive campaigns which describe their reporting as “fake news”. The president has publicly threatened to cancel their TV concession which is up for renewal in 2021.⁷⁶

The president has also pursued international journalists that have criticized his government. Throughout 2019, for example, the Intercept's journalist Glenn Greenwald denounced that the justice minister Sergio Moro, was supposedly implicated in misconduct during the course of the country's anti-corruption investigations called Lava Jato, or Car Wash.⁷⁷ Despite several efforts by the president's allies to have Greenwald investigated, the federal police and later the courts determined that Greenwald should not be investigated.⁷⁸ In January 2020, Greenwald was formally indicted without having been investigated.⁷⁹ This episode is the first “legal” case involving the prosecution of a journalist with clear demonstrations of **abuse of power and intimidation and harassment.**

The education sector has also been harassed, including through **overt and disguised censorship**. Specifically, public schools and universities are facing a range of crackdowns against “ideological” teachers and professors said to promote gender ideology, leftist ideas or who are critical of government in their classrooms.⁸⁰ Students are being requested by some government authorities and their supporters to record and denounce teachers reportedly “opposed” to the government agendas.⁸¹ A hotline was opened in early 2020 by the ultra-conservative and religious minister of human rights, Damara Alves, to receive complaints against teachers disrespecting “moral, religious and the family ethics”.⁸² In the end of 2019, the former education minister, Abraham Weintraub, has also accused public universities of being overrun with drug use without supplying any evidence.⁸³ Meanwhile, a new decree was issued in late 2019 allowing the ministry of education to design new content for textbooks, despite the fact that such processes to date were previously required to be open to public bidding.⁸⁴

Since the beginning of the administration, there has been an enormous effort to restrict access to public information. Access to information is fundamental for the monitoring and evaluation of public policies. It enables media and civic groups to hold governments accountable, strengthening public policies and making them more plural, inclusive, and effective. At least 13 measures were undertaken to either deny or make it harder to access information. Among the most controversial ones are the attempts to changes in the national Law of Information Access allowing public institutions to classify information or not to respond to information requests, and the attempts to disguise the real numbers related to infected people during Covid-19 pandemics or of deforestation in the Amazon forest, as well as the exclusion of the number of deaths caused by police officers from the government’s human rights report.⁸⁵ These attempts were later suspended by decisions coming from the Judiciary and Congress.⁸⁶

The government has also initiated a culture war. The country’s culture agenda is being shaped by a profoundly religious-conservative agenda. The ministry of culture was closed, and its powers were partially transferred to a special secretary under the ministry of tourism.⁸⁷ Projects of “leftist” artists, including those featuring minorities or with gender sensitive related content were defunded. A call for proposals for films on LGBTQY-related issues was cancelled and was only reinstated after a court ruling determined it constituted **censorship**.⁸⁸ Alarmingly, in January 2020, the former special secretary for culture, Roberto Alvim, released an official video replicating the speech and aesthetics of Nazi propaganda, including a speech delivered by the former Nazi minister for propaganda, Joseph Goebbles.⁸⁹ Following public outcry, Alvim was dismissed. Commentators in Brazil noted at the time the comments by the president on the Nazi regime throughout his career.⁹⁰

The federal administration and its supporters are also waging **fake news and disinformation campaigns** - a common tactic of authoritarian leaders globally - against the country’s scientific community, especially those involved in human rights, climate and Covid-19 related issues. Although the machinery that supposedly coordinates the fake news - known as the “hate cabinet”, does not have a line in the federal budget, it is said that their work - that of spreading hatred and disinformation - is subsidized with taxpayers’ money, through staff salaries and communication services contracts.⁹¹ In fact, these strategies have been widespread before and since during the 2018 electoral campaign, especially through WhatsApp groups. Four inquiries at the Superior Electoral Court are investigating the use of disinformation and defamation campaigns during the 2018 election campaign, allegedly funded by business leaders who supported Jair Bolsonaro’s presidential campaign.⁹²

An example of how disinformation plays out in practice, the renowned scientist Ricardo Galvão was fired from his post as director of the Brazilian Institute of Space Research (INPE) after releasing data about rampant deforestation in the Amazon.⁹³ Galvão was publicly castigated, with claims that he was lying and funded by an NGO with vested interests in forest resources, with no evidence offered. These accusations play to older anxieties in Brazil about “foreign interference” in the Amazon.⁹⁴ Meanwhile, the lack of investment and the attacks against Brazil’s scientific community is contributing to record levels of brain drain.⁹⁵ As the Global Public Policy Institute concluded, academic freedom is under threat in Brazil, particularly didactic and scientific autonomy in public universities.⁹⁶ Similar tactics are directed against a wide range of CSOs and international NGOs, especially those involved in environment conservation and protection. For example, Greenpeace was wrongly accused by the minister of environment, Ricardo Salles, of being behind a major oil spill off the coast of Brazil.⁹⁷

In a clear case of **civil rights violation** so-called “investigations” were initiated against the NGO Saúde Alegria and its volunteer firefighters working in Alter do Chão, a municipality in Pará state.⁹⁸ The NGO’s offices were raided and four volunteers were arrested, paraded in front of the cameras with shaven heads, and only released after spending four days in detention. Likewise, President Jair Bolsonaro has made baseless accusations against a wide range of organizations that they are setting fires to the Amazon in order to generate from international organizations such as the WWF and celebrity donors such as Leonardo DiCaprio.⁹⁹ The Brazilian authorities have been widely criticized and condemned by several European governments, in particular, and rights groups around the world.¹⁰⁰

The extent to which different elements in government are pursuing abusive surveillance, which is an **infringement of privacy**, is hard to determine with precision. Nevertheless, several interviewees mentioned the existence of illegal tapping, as well as the use of ‘private dossiers’ to blackmail and threaten opponents, a practice thought to be widespread. As are lists of people under surveillance, whereby the state apparatus has been used to monitor, coerce and censor citizens, are also considered commonplace. As confirmed by the Minister of Justice Andre Mendonça, teachers and police officers who position themselves as anti-fascists were being listed and profiled.¹⁰¹ In August 2020, the supreme court prohibited this practice.¹⁰² The government nominated an intelligence agent to coordinate the government’s relations with NGOs.¹⁰³ Because he was an intelligence agent, his identity could not be revealed, which caused concern among civil society groups. A few months later, the Federal Justice in São Paulo suspended the decision.¹⁰⁴

In September 2020, former Minister of Health Luiz Henrique Mandetta who left the government due to disagreements with President Bolsonaro in his handling of the Covid-19 crisis, affirmed that he had the impression he was being followed by intelligence agents while still a minister. He suggested the President seemed to know he went to a bakery with his wife on a specific day and later went himself to that specific bakery which was considerably far from his residence to constrain him.¹⁰⁵

Another indicator of the extent to which the current administration is thinking about **curbing political rights** and dissent is the casual verbal threats by the president’s sons, echoed by the finance minister of invoking Institutional Act 5, or AI-5.^{106 107} AI-5 is a dictatorship-era decree that institutionalized practices such as torture, repression and censorship. It gave the head of state virtually unlimited powers, including to close Congress,

to impeach politicians and suspend the right of *habeas corpus* for political prisoners. Article 4 of AI-5 was the most unsettling, allowing the president to suspend the rights of citizens for up to 10 years and impeach elected officials at all levels of government. Indeed, there have been episodes of police entering teacher's union meetings and the offices of opposing political parties to question and intimidate participants.¹⁰⁸ It was also the case that specific executive legislation in the form of decrees, enabled the use of the national force - formed by police officers from different states of Brazil, to contain public protests and demonstrations, such as the Indigenous women march.¹⁰⁹ Since then, Jair Bolsonaro suggested he could use a "federal" security force against protesters. It is unclear whether he referred to the Armed Forces, which has occurred in Bolivia, Chile and Ecuador or the national force.¹¹⁰

It is also likely that the Bolsonaro administration's extremist rhetoric and hateful narratives are exacerbating **human rights violations including physical violence**. Moreover, he has abstained from speaking out against, deterring or responding to a range of grave human rights violations. There appears to be a perception that some rural landowners and land-grabbers interpreted the government's aggressive rhetoric as a *carte-blanc* that led to a surge in extralegal violence perpetrated against indigenous populations, grassroots environmental defenders, journalists and vulnerable populations throughout the Amazon, among other places.¹¹¹ Reports of threats, land invasions and physical violence committed against indigenous groups in particular are on the rise.¹¹² For example, in 2019, Paulo Paulino Guajajara – an indigenous leader protecting his group's territory from illegal loggers in Maranhão – was murdered.¹¹³ And because the government has systematically dismantled environmental and indigenous groups protection agencies, there is limited capacity to protect native groups and their lands.¹¹⁴

The Bolsonaro administration's "tough on crime" rhetoric also appears to be inciting police violence.¹¹⁵ A key proposal from the government is to remove limits on the use of lethal force by state police officers. For example, one of the president's elected sons who is under criminal investigation, Flavio Bolsonaro, presented a bill to treat suspects who "refuse to negotiate or surrender" as a suicide.¹¹⁶ The idea was to "demonstrate that [he/she] accepts or assumes the risk that the situation will be solved with his/her own death". The president has also promised to legally protect police officers who are arrested "owing to media pressure" and has been seen of being supportive to illegal strikes and intimidation led by police corporations in different states, which have challenged state governors' authority.¹¹⁷ In a country where levels of impunity are already among the highest in the world these measures can end up granting the police a license to kill.¹¹⁸

Brazil is also seeking to "internationalize" its crusade to close civic space, which damages the country's foreign policy and international image. Foreign minister Ernesto Araujo is on record denying climate change, promoting anti-LGBTQY propaganda, condemning "gender ideology", and campaigning against Brazilian artists that hold views contrary to his administration. In the process, he is degrading the morale of the country's diplomatic corps¹¹⁹. In the meantime, the president's son, Eduardo Bolsonaro, has joined forces with Steve Bannon's initiative to advance hard conservatism. The first gathering of the "The Movement" in Latin America was hosted by Eduardo Bolsonaro in São Paulo in late 2019. In 2020, Brazil's government has sided with ultra-conservative governments, such as Saudi Arabia, Iraq and Pakistan against provisions for sexual education and women's reproductive rights in the United Nations Human Rights Council.¹²⁰ Former foreign ministers from the six previous administrations denounced Brazil's foreign policy under Bolsonaro as being "shameful" and "unconstitutional".¹²¹

Fighting back

The Brazilian case reveals a complex array of legal, illegal and extra-legal strategies on the part of the Bolsonaro administration to stifle and suppress civic engagement. While the means vary in scope and scale, the end goal is to undermine government accountability, weaken government protections, restrict rights and freedoms of speech and expression, limit press freedom, sow anxiety and fear, precipitate violent reprisals, and even incite violence against their opponents. The whole of society loses when civic space is shut down. The suppression of independent media undermines democratic debate. The censorship of journalists, artists and teachers stifle independent expression. The termination of public channels of participation degrades public policy and the hate rhetoric against all groups that oppose the government's views can incite violence and undermine the rule of law.

This preliminary study identified some possible strategies that could be tested to reclaim the civic space in the Brazilian case and in other places that face similar challenges to open civic spaces.

- I. Strengthen and broaden coalitions for defending the public good and informed public policy, including the private sector. Efforts to pushback against the curbing of civic space will require the broadening and strengthening of civic action and of coalitions to defend public goods and evidence-based public policy. This is not isolated to national and grassroots CSOs and other non-profit entities. Nor is it limited to reinforcing universities and independent media, although this is crucial. What is also essential are coalitions of the willing that bring the private sector alongside
 - with civil society, and which can raise the costs of perverse behavior. Examples of cross-sector coalitions include Business for Nature, the UN Global Compact, the World Business Council For Sustainable Development and the *Coalizão Clima Florestas e Agricultura in Brazil*.
- II. Foster civic action, protect and support civil society actors. The societal answer to the crack down on the civic space should be to encourage and support more civic action and engagement. In many countries facing threats to civic space, it is often the case that civil society has no strong institutional backing or long-term philanthropic support. It is often the case that CSOs are dependent on international funds to operate, which ends up suiting the authoritarian governments 'foreign agents' discourse. Many groups operate at their own risk, while trying to galvanize multiple supporters and partnerships. There is a stronger role to be played by concerned individuals, foundations, philanthropists, and social impact investors in speaking up and increasing support for targeted civil society groups that promote vital societal causes.
- III. Engage in the debate about the role that the internet and new technologies should play in promoting democratic fair play. A fair and fact-checked social media environment is critical to limiting the closure of civic space. Disinformation, hate speech and domestic and foreign interference in democratic elections are deepening hostilities, resentment

and polarization online and off. Expanding the engagement of technology platforms in preventing fake news, illegal political advertising, and dangerous content is essential. Some companies such as Twitter and Google are taking steps, though are still not doing nearly enough.¹²²¹²³ Others like Facebook and Youtube are far behind. What is required is a debate about how best to balance the individual right for freedom of expression and other individual and collective rights. Also needed is a robust investment in digital literacy and promoting civil debate in the digital realm.

- IV. Name and shame: double down on the partnerships with national and international independent media and the international community. While not as effective as in the past, naming and shaming can still help bring malfeasance out into the open, especially if done in coordination by national and international actors. There is a tendency for governments to shy-away from criticizing or publicly naming legal (and even extra-legal) forms of intervention. This is especially the case in UN fora where interference in domestic affairs is still considered an abrogation of sovereignty. One way to push back against efforts to constrain civic space is through coalitions of governments - as well as networks of independent media associations and international organizations and philanthropists. The goal is to mobilize public opinion and raise the costs for governments that apply legal and extra-legal measures to constrain civil society since restrictions to civil society

are detrimental to the achievement of the United Nations Sustainable Development Goals.¹²⁴

- V. Build bridges and work across sectoral and disciplinary silos and geographic and political divides. The truth is that broad global, national and local alliances are required to prevent civic space from closing and to create new openings. This will demand working across political divides and disciplinary silos. It will also require smarter narratives from a wide constituency. It is not the case, as the far-right is arguing, that the human rights stand in the way to law and order, much less development. Civic actors will need to get much better at making the case about the inherent and instrumental value of human rights. This will require a capacity to rise above differences and find common cause in an open, lively, and democratic civic space.

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