



THINKING DEMOCRATICALLY: A COMPREHENSIVE APPROACH TO COUNTERING AND PREVENTING 'SHRINKING SPACE'

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Executive Summary

‘Shrinking civic space’ has been the buzzword in international fora and discussions on civil society for the last 10 years. In roughly the same period, data and research have shown that democracy is in decline globally, with some arguing we are experiencing the third wave of autocratisation.¹ The challenges to democracy have only intensified as a result of the response to the COVID-19 pandemic, with the adoption of restrictive measures across the world and serious concerns over the looming economic recession.

The phenomenon of ‘shrinking space’ has long been considered to be separate from the global trend of increasing challenges to democracies around the world. However, more recently an increasing number of policy-makers and practitioners have called on the international community to broaden the narrative of ‘shrinking civic space’ to a closing of democratic space more generally. They argue that the current narrative of civic space has led to a narrow interpretation of the issue as a civil society problem, leading to a reactive and legalistic response.

This tension resulting from the lack of conceptual clarity on closing space lies at the heart of the mixed and limited results from the international community’s efforts to counter closing civic space. This paper has attempted to provide further evidence in order to enhance the understanding of different tactics for closing democratic space, and thereby contribute to a strategic framework for countering and preventing attacks on democratic space.

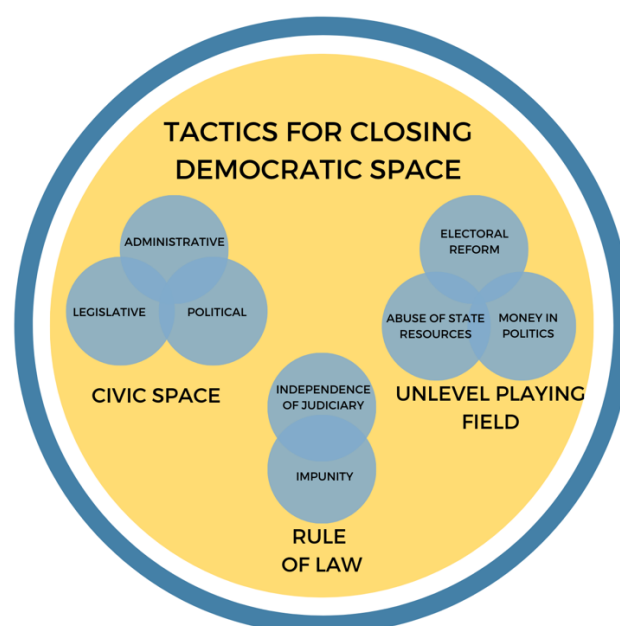
This paper brings together 7 case studies on closing democratic space by experts from countries in Latin America, Eastern Europe and sub-Saharan Africa as well as examples from Europe. The paper concludes with actionable recommendations for preventing and reacting to closing democratic space. Three broad tactics to close democratic space were identified in the research that we suggest as a framework of analysis for understanding closing democratic space. These are:

1. **Restricting civic space** (particularly freedom of expression, assembly and association) with various legal, administrative, extra-legal and political measures, and thereby inhibiting the proper functioning of media outlets, emerging political (opposition) forces, and civil society organisations (CSOs).

¹ Lührmann, A. & Lindberg, S. (2019): a third wave of autocratization is here: what is new about it? *Democratization* 26:7. Available [here](#).

2. Changing the rules of the game so as to create an **uneven playing field for political contestation**. This includes the abuse of state resources by the incumbent, skewed reforms in political party and electoral legislation, and one-sided private and illicit financing in campaigning.
3. **Undermining the separation of powers**, notably the independence of the judiciary, and thereby politicising legal processes, and allowing impunity and violence to shape the activities of citizens, media actors and CSOs.

The research also highlighted a number of findings that emerge in multiple country contexts and through broader global analysis. Firstly, **the case studies show that attacks on civic space cannot be seen as separate from the wider trend of autocratisation occurring at a global and national level**. Restricting civic space, closing the space for political contestation and stifling the rule of law are different ‘tactics’ towards the same end: gradually silencing dissent and concentrating power in the hands of the few. This phenomenon is deeply embedded in the wider trend of regressing democratic space and authoritarian resurgence. In order to be successful, responses to the trend need to take this integrated nature of closing space into account.



Secondly, **closing space is a multifaceted and non-linear phenomenon**. Progressive changes on one level can exist in parallel to regressive changes on another level. Varying combinations of tactics are employed at different points in time. It is thus a multi-layered non-sequential phenomenon affecting the whole political system.

A third finding is that **space is being eroded gradually through subtle attacks or a protection of the status quo**. It is the sum of both the blatant and the subtle restrictive actions that are detrimental to democratic space in the long run. Yet gradual erosion is harder to detect and call out than a singular attack, and the sum of such gradual erosive tactics seems to be harder to respond to in the long term. In addition, the prevention of change and a state of generalised impunity also greatly limit democratic space.

Taken together the research points to a fourth finding that the different manifestations of closing space have no geographical limitations. **Closing democratic space is a global phenomenon**, fuelled by authoritarian learning and autocratic influencing strategies. This implies that global coordination is necessary for an effective response.

When it comes to the roles of different actors, the fifth finding underlines that **the judiciary, political parties and civil society play a particularly important role in defending democratic space**. In many cases, civil society was able to push back on repressive tactics through advocacy, public litigation, demonstrations, and the building of strategic alliances. In other cases, civil society even managed to expand space for contestation. Generally, civil society was much stronger in its defence of democratic space when the judiciary was still capable of upholding constitutionalism. Opposition parties can also be an important ally for civil society, for instance in countering legislative proposals, or in frustrating political processes aimed at closing space - this is especially true of smaller political parties who have played an important role in cases where larger opposition parties contributed to the closing of democratic space.

Closing democratic space has a differentiated impact on different population groups, particularly women, youth, or people belonging to minorities. This means that people who are already facing barriers in participating in decision-making processes are even more affected and further excluded when democratic space is being closed. This has important implications for how to best support these underrepresented groups in a closing space context.

Finally, **a variety of actors - including criminal networks, business elites and political parties - play a key role in closing democratic space**. While the ruling government is often the main perpetrator of autocratisation, the case studies illustrate the powerful role of criminal networks, business interests or corrupt political parties in breaking down democratic space. Civil society, on the contrary, is the main target as well as defender of democratic space.

This paper is designed to provide an accessible framework of analysis for closing democratic space at a time of increasing policy and scholarly focus on the topic. It also provides new insights into the roles of often overlooked actors within the political system and the role they play in protecting or undermining space for contestation.



1.

Introduction

For nearly a decade now, a phenomenon termed ‘shrinking civic space’ has been at the forefront of international discussions about civil society. Following the example of the Russian ‘foreign agents’ law in 2012, a global and systematic trend of restrictions on civil society has been identified and labelled as ‘shrinking space’ by many actors in the field. Numerous research projects and monitoring projects have been undertaken in order to understand the phenomenon, and over time, these have been able to demonstrate a global and growing trend of threats to and restrictions on civil society, media, activists and active citizens in an increasing number of countries.²

In roughly the same period, a growing trend of challenges and threats to democracy has been identified by a number of prominent scholars and research institutions under various terms, ranging from ‘democratic backsliding’³, ‘democratic rollback’⁴ and ‘authoritarian resurgence’.⁵ A comprehensive empirical overview of all autocratisation episodes from the last century based on data from the Varieties of Democracy Project (V-Dem) showed that autocratisation is now characterised by gradual regressions in both autocratic and democratic states, but mainly affects democracies - including long-established wealthy democracies.⁶

² See for a chronological overview, see European Parliament (2017): Shrinking space for civil society: the EU response. Available [here](#).

³ See: Bermeo, Nancy (2016): On Democratic Backsliding. *Journal of Democracy*, 27 (1), 5-19; and Levitsky, Steven & Ziblatt, Daniel (2018): *How Democracies Die*. Crown Publishing, New York.

⁴ Diamond, Larry (2008): The Democratic Rollback. *The Resurgence of the Predatory State*. *Foreign Affairs*, 87 (2), 36-48.

⁵ Gat, Azar (2007): The Return of Authoritarian Great Powers. *Foreign Affairs*, 86 (4), 59-69

⁶ Lührmann, A. & Lindberg, S. (2019): a third wave of autocratization is here: what is new about it? *Democratization* 26:7. Available [here](#).

This trend has been heightened by the global COVID-19 crisis, with governments - democracies and autocracies alike - putting in place measures that limit checks and balances on government, and restrict the exercise of fundamental freedoms.⁷ Numerous governments have put in place emergency procedures without sunset clauses, thereby ridding the legislative of its oversight function.⁸ Over 50 countries have postponed national and subnational elections, while others plan to go ahead anyway despite the risks posed to health, the likelihood of low turnouts and the distorted campaigning environments.⁹ ¹⁰ Nearly all governments have significantly limited freedom of association and assembly, and many have limited freedom of expression in view of the infodemic on the virus. Many have also pointed at the gender-differentiated impact of the crisis and measures to contain the pandemic, as well as the disproportionate impact on minority groups.¹¹ ¹² The limitations of fundamental freedoms and the breakdown of checks and balances have been widespread across all regime types, but they have been particularly worrisome in countries with autocratising regimes, which are unlikely to remove such measures.¹³ The COVID-19 crisis thus clearly illustrates the intricate interplay between closing civic space and autocratisation.

Yet, the phenomenon of ‘shrinking space’ has long been considered to be separate from the global trend of increasing challenges to democracies around the world. The 2017 CIVICUS state of civil society report considered the crisis of democracy as an additional layer of challenges on top of restrictions on civic space.¹⁴ However, more recently an increasing number of policy-makers and practitioners have called on the international community to broaden the narrative of “shrinking civic space” to a closing of democratic space more widely.¹⁵ They argue that the current narrative of civic space has led to a narrow interpretation of the issue as a civil society problem, leading to a reactive and legalistic response. Others have, however, countered this, stressing donors’ fear of political risks and the dangers of diffusing and paralysing the response to closing civic space.

⁷ Braun, F., Brechenmacher, S., Carothers, T. (2020): How will the Coronavirus Reshape Democracy and Governance Globally. Available [here](#).

⁸ Applebaum, A. (2020): The People in Charge See an Opportunity. The Atlantic. Available [here](#).

⁹ James, T. (2020): Should elections be postponed because of coronavirus? The Conversation. Available [here](#).

¹⁰ International IDEA (2020): Global overview of COVID-19: impact on elections. Available [here](#).

¹¹ Alon, T., Doepke, M., Olmstead-Rumsey, J., Tertilt, M. (2020): The impact of the coronavirus pandemic on gender equality. Vox EU. Available [here](#).

¹² Zala, E. (2020): Women hit hardest by corona economic crisis. EU Observer. Available [here](#).

¹³ Braun, F., Brechenmacher, S., Carothers, T. (2020): How will the Coronavirus Reshape Democracy and Governance Globally. Available [here](#).

¹⁴ Civicus (2017): State of civil society report. Available [here](#).

¹⁵ Brechenmacher, S. & Carothers, T. (2019): Defending Civic Space: Is the International Community Stuck? Available [here](#). See also: European Parliament (2017): “Shrinking space for civil society: the EU response.” Available [here](#).

This tension resulting from the lack of conceptual clarity on closing space lies at the heart of the mixed and limited results from the international community's efforts to counter closing civic space. Brechenmacher and Carothers have argued that the international community is somewhat stuck in its response to restricted civic space, and call for a strategic framework for responding to the challenge of closing democratic space - including civic space and other challenges - so as to ensure unity and focus, and integrate the strategic response to closing democratic space within the wider foreign policy agenda.¹⁶ Likewise, the European Centre for Development Policy Management has called on donors to respond to the wider challenge of closing democratic space rather than limit its focus to civil society.¹⁷

This paper is based on research in countries in Latin America, Eastern Europe and sub-Saharan Africa, conducted by local experts.¹⁸ Each of these case studies detail the state of democracy and human rights in the country, analysing the drivers and strategies for closing democratic space, with special attention to the role of political parties, donors and civil society. Democratic space is defined here as a “*produced social space* in which there is political contestation and inclusiveness reflected in the extent to which citizens have the opportunity to (a) formulate their preferences, (b) articulate their preferences and (c) have their preferences weighed equally in the conduct of government”.¹⁹ The closing of democratic space then takes the form of state and non-state actors limiting space and opportunities for political contestation and participation. This includes special attention to civic space, alongside the rule of law, separation of powers, checks and balances and fair and inclusive political participation and contestation.

This paper departs from two key observations: Firstly, it is clear that there is a need to clarify the notion of “shrinking space” in relation to the trend of autocratisation. Secondly, despite the wealth of analysis of civic space, responses have so far failed to succinctly operationalise analysis into action. The paper responds to these observations by firstly providing further evidence on the strategies and features of reduced *democratic* space, including coordinated action to clamp down on civic space through 7 case studies. The paper breaks down the strategies into three categories: a) closing civic space, b) creating an uneven playing field and c) undermining the separation of powers and the rule of law. It follows this by looking at several key actors and the role that they play in the phenomenon of shrinking space. It ends by extrapolating evidence from prior analysis and the commissioned case studies in order to provide recommendations for action.

¹⁶ Ibid.

¹⁷ Bossuyt, J. & Ronceray, M. (2020): Claiming back civic space: towards approaches fit for the 2020s? European Centre for Development Policy Management. Available [here](#).

¹⁸ Country case studies were conducted in Guatemala, Honduras, El Salvador, Georgia, Indonesia, Kenya and Zimbabwe.

¹⁹ Netherlands Institute for Multiparty Democracy (2017): research methodology on closing democratic space.



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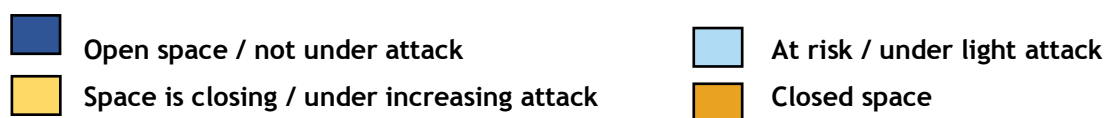
Strategies for closing democratic space

The research identifies three closely interrelated and interacting tactics for closing democratic space: attacks on civic space, the creation of an unlevel playing field, and the undermining of the rule of law.

While a wealth of evidence and research exist on closing civic space - including the three tactics identified here - it has often been dealt with in silos, and has tended to overly focus on restrictive laws, while overlooking some of the overtly political strategies of intimidation and violence. At the same time, the creation of an unlevel playing field tends to be linked primarily to elections and research on electoral support, but rarely looks at this as part of a wider and more long-term strategy for limiting space for contestation. Likewise, the rule of law and impunity are the subject of justice sector support and multiple academic studies but are insufficiently linked to the creation of an unlevel playing field and tactics to close civic space. This chapter first presents some of the evidence on each of the tactics separately, to then move beyond these silos and show the close interlinkages of each of these tactics in the concluding discussion.

Table 1: Overview of tactics to close democratic space in country case studies

	Kenya	Indonesia	Georgia	El Salvador	Guatemala	Honduras	Zimbabwe	Europe
Civic space								
Legal tactics	Space is closing / under increasing attack	Space is closing / under increasing attack	Open space / not under attack	At risk / under light attack	Space is closing / under increasing attack	Open space / not under attack	Space is closing / under increasing attack	At risk / under light attack
Administrative tactics	Closed space	Space is closing / under increasing attack	Open space / not under attack	At risk / under light attack	At risk / under light attack	Open space / not under attack	Space is closing / under increasing attack	At risk / under light attack
Political tactics	Closed space	Space is closing / under increasing attack	Open space / not under attack	Closed space	At risk / under light attack	Space is closing / under increasing attack	Closed space	At risk / under light attack
Uneven playing field								
Abuse of state resources	At risk / under light attack	Open space / not under attack	At risk / under light attack	Open space / not under attack	Open space / not under attack	Space is closing / under increasing attack	Closed space	Open space / not under attack
Reforms in electoral & party law	Open space / not under attack	Space is closing / under increasing attack	Space is closing / under increasing attack	Space is closing / under increasing attack	Space is closing / under increasing attack	Space is closing / under increasing attack	At risk / under light attack	Open space / not under attack
Campaign finance & money in politics	At risk / under light attack	Space is closing / under increasing attack	At risk / under light attack	Space is closing / under increasing attack	Closed space	At risk / under light attack	Space is closing / under increasing attack	Open space / not under attack
Rule of law								
Attacks on independence of judiciary	Open space / not under attack	Open space / not under attack	Space is closing / under increasing attack	Space is closing / under increasing attack	Open space / not under attack	Open space / not under attack	At risk / under light attack	Space is closing / under increasing attack
Impunity	Open space / not under attack	Space is closing / under increasing attack	Space is closing / under increasing attack	Closed space	Open space / not under attack	Open space / not under attack	At risk / under light attack	Open space / not under attack



2.1 Closing civic space

There is an impressive range of studies into closing civic space worldwide.²⁰ Civic space is widely defined as the environment in which citizens and CSOs can freely organise, participate and communicate without hindrance, and thereby exercise their right to freedom of association, peaceful assembly and expression.²¹ ‘Shrinking’ civic space is the systematic trend of gradual restrictions imposed on citizens - especially those participating in CSO activities - to keep them from exercising their rights to freedom of assembly, association and speech, usually by the state. Because ‘shrinking’ implies an involuntary and irreversible trend, the term ‘closing space’ has generally been preferred by civil society organisations.²²

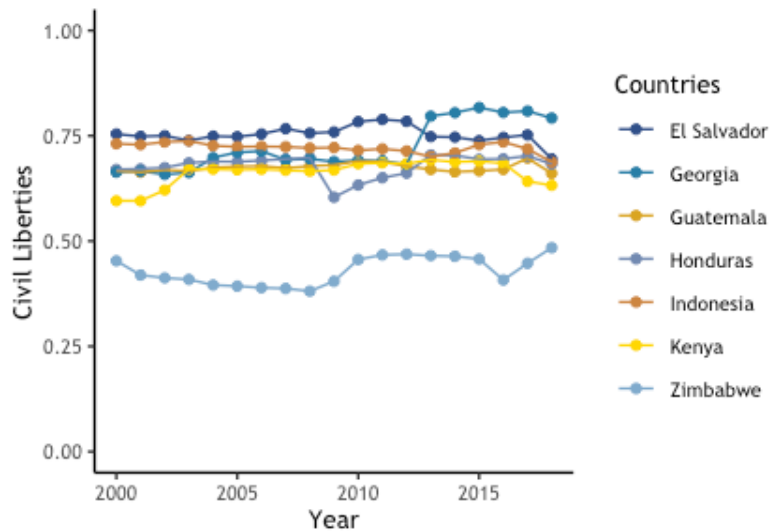
Civic space is the first battle ground for the closing of democratic space, through three types of measures: legislative, administrative and extra-legal or political measures. The graph below shows that all cases under study saw varying degrees of decline in civil liberties in recent years, except for Zimbabwe, which can be explained by the slight (and short lived) political opening following the departure of the longtime dictator Robert Mugabe.

²⁰ Including by CIVICUS with their annual state of civil society report, as well as by Amnesty International, the International Centre for Not-for-Profit Law, the Council of Europe, and Fronline Defenders, the Fundamental Rights Agency, amongst others.

²¹ CIVICUS (2018): what is civic space? Available [here](#).

²² From this point onwards, this report will use the term ‘closing space’ to describe the phenomena of gradual restrictions imposed on citizens - especially those participating in CSO activities - to keep them from exercising their rights to freedom of assembly, association and speech.

Figure 1: Civil Liberties from 2000-2018



All scoring runs from 0 to 1, with 1 representing the highest achievement. Source: International IDEA, Global State of Democracy Indices. The civil liberties index here includes freedom of association, assembly, expression, movement, religion and personal security. Available [here](#).

Legislative measures

‘Foreign Agent’: While this label evokes images of spies and war movies, that was the label adopted by Russia in 2012 to describe NGOs which are societally engaged and receive foreign funding. In addition to framing NGOs as spies and traitors, the law came with excessive reporting requirements with the risk of high fines and cut access to foreign funds. The impact on Russian civil society cannot be understated, as an activist explains to Amnesty International: “we face uncertainty and it is difficult to have a vision or a long-term strategic plan and to secure other types of funding. ... introducing strict reporting requirements created extra work for our... staff... and diverted our staff’s time and energies from core activities.”²³ The law was recently amended to also cover independent journalists and bloggers²⁴ and served as an example for NGO laws adopted in Azerbaijan, Kazakhstan, Bosnia’s Republika Srpska, Belarus and Egypt.²⁵

In recent years at least 50 countries have put in place laws that interfere with the right to freedom of association, restricting the work of CSOs and the individuals participating in them.²⁶ Such laws mostly target CSOs’ ability to operate through administrative requirements, CSOs’ access to funding,

²³ Amnesty International (2019): Laws designed to silence: the global crackdown on civil society organisations. Available [here](#).

²⁴ BBC World (2019): Russia to label individuals as ‘foreign agents’ under new law. Available [here](#).

²⁵ Ibid 16.

²⁶ Ibid 16.

or specific voices that are deemed unacceptable, such as LGBTI groups or women HRDs. These findings are clearly reflected in the case studies conducted for this research paper.

Restrictive legislation has been adopted in Guatemala, Kenya, Zimbabwe and Indonesia, but also in many European countries. In Kenya, the proposed Statute Law Amendment Bill in 2013 intended to cap NGOs' foreign funding at 15% of their total budget. In Guatemala, a new law establishes "control" mechanisms on NGOs, creating uncertainty about necessary permits and approval by the state for all their projects. Such laws restrict the ability of CSOs to operate, and thereby greatly infringe on their freedom of association. Such laws have been in place in Zimbabwe since the early 2000s. Other laws explicitly limit the kinds of activities NGOs can engage in, or their ideological orientation. The Indonesian NGO law gives a sentence of six months up to life imprisonment to anyone in an NGO who "embraces, develops or spreads ideology that is in conflict with (the state ideology) Pancasila." As argued by Human Rights Watch Asia director Phelim Kine, "the NGO law is being used as a vehicle for Orwellian thought police. The state has no business telling NGOs or anyone else what they can and can't believe."²⁷

An investigation into civil society space by the EU's Fundamental Rights Agency in 2018 identified a host of obstacles to a conducive regulatory environment for civil society in Europe, including registration requirements, the adverse effects of legislation on counter-terrorism, political campaigning and lobbying, and bans on particular kinds of assemblies. In Greece, a Ministerial Decision effectively outlawed unregistered and independent NGOs and took control over NGOs on Lesbos island. In Ireland and the United Kingdom, lobbying and political campaigning legislation are defined such that it effectively limits CSOs' funding sources and amounts, and spending during electoral periods. In contrast to these examples of restrictive legislation, Slovenia exempts CSOs promoting democracy, human rights and the rule of law from registration and reporting requirements on lobbying.²⁸

Legislative restrictions limiting freedom of expression and press include licensing rules and laws criminalising the distribution of certain types of content. Such laws may criminalise certain content based on vaguely defined moral norms, as is the case in Indonesia, but it may also concern public information. In Honduras, a law was imposed that penalises the disclosure of classified information and limits public access to public information. In Zimbabwe, the Access to Information and Protection of Privacy Act was used to legally harass a number of journalists as well as shut down the only independent Zimbabwean daily newspaper.²⁹ The main perpetrator of this type of onslaught on civic

²⁷ Human Rights Watch, 2013: Indonesia: Amend Law on Mass Organizations. Available [here](#).

²⁸ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

²⁹ ARTICLE 19 & Media Institute of Southern Africa (2004): The Access to Information and Protection of Privacy Act: Two Years On. Available [here](#).

space is the government in power, possibly in cooperation with other political actors. It may also include seemingly benign legislation on defamation of public officials which ends up undermining freedom of expression, as in a number of countries in Europe.³⁰

Administrative measures

“They entered the apartment with shotguns and assault rifles. It was quite violent. They pinned us to the ground. It lasted quite a long time. We had no idea why they were there.” These were the words by a climate activist who was preventatively placed under house arrest by the French police ahead of the UN Climate Change Conference in Paris.³¹ At that time, France was under a state of emergency that ensued until 2017, following the large-scale terrorist attack in Paris. This meant the French authorities were allowed to take a number of emergency measures which may involve a derogation from civic rights.³² A total of 24 activists were placed under house arrest, demonstrations were banned all throughout the city, and tear gas was used on those protestors who did not respect the ban.³³ The politicised implementation of existing laws - such as for instance the state of emergency in France - is an administrative measure regularly used to restrict civic space, alongside the refusal to operationalise laws and the usage of vague or old legislation to harass CSOs.

Another telling example of this in practice is how the Kenyan government moved the NGO Coordination Board from one ministry to another, to circumvent a court order secured by CSOs compelling the minister to gazette the Public Benefits Organisation Act. The government thereby avoided operationalising the law and enabled a different ministry to suspend the activities of over 500 CSOs for allegedly failing to comply with regulations. One of the organisations whose activities were suspended was the International Foundation for Electoral Systems (IFES), who were undertaking a major electoral assistance programme in the run-up to the 2017 elections.

Similarly, some German NGOs have lost, or risk losing their recognition of acting in the “general interest” - and thereby their belonging to a special tax category for CSOs - because they are considered to be too “political.” As remarked by the German Marshall Fund, “If organizations lose their recognition of general interest because they are judged to be “political,” this puts the entire definition of what “general interest” is at stake.”³⁴ In Romania, a European directive on anti-money

³⁰ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

³¹ France 24, 29/11/2015: France places climate activists under house arrest during Paris summit. Available [here](#).

³² Council of Europe Secretary General (2020): Secretary General tells UN Human Rights Council: “You can rely on our support.” Available [here](#).

³³ France 24 (2015): Climate protesters clash with police in Paris. Available [here](#).

³⁴ Bouchet, N. & Wachsmann, I. (2019): A matter of precaution - watching the shrinking civic space in Western Europe. For German Marshall Fund - United States. Available [here](#).

laundering has been translated into national law in such a way that it greatly increases reporting requirements for NGOs, with the threat of their dissolution.³⁵ Since 2016, the UK government has introduced clauses in grant agreements that prevent implementing agencies from criticising the government.³⁶ Hungarian and Polish CSOs have lost their tax numbers and had their offices raided by state authorities.³⁷

The usage of existing laws to close democratic space has in Zimbabwe led to the often-heard phrase: “in Zimbabwe there is rule by law instead of rule of law.” In addition to the overtly restrictive NGO and freedom of information act laws, Zimbabwean opposition and civil society figures are frequently harassed through judicial mechanisms, facing trumped up charges in court cases which are often prolonged, sometimes for years on end.

Administrative measures are also used to limit freedom of the press. Through intermediaries such as media regulators, the government can censor and impose self-censorship by using advertising guidelines or withholding advertising revenue to limit certain kinds of content on news platforms, as was observed in El Salvador and Kenya. Burdensome bureaucratic procedures are put in place for travelling to certain areas to restrict news coverage of those areas, as in the case of Indonesia.

Extra-legal measures

“Civil society is currently fighting a battle for its legitimacy, and it’s not winning,” states a Kenyan civil society activist in an interview with CIVICUS in 2018.³⁸ “From every podium, including national television, the government is pushing a narrative discrediting civil society.” In line with this activists’ experience, the Kenyan case study found that the ruling party has supported bloggers to spread hateful narratives about civil society, paving the way for repressive legislation.

Smear campaigns are a powerful political tool to shrink civic space, alongside other extra-legal measures such as violence, intimidation, trumped-up charges against activists and journalists, reductions in public funding and rhetorical attacks to undermine the legitimacy of civil society.

Physical aggression and intimidation through violence and criminal prosecution are old, but effective strategies that are still in use against civil society, journalists and activists today, and are often combined. In Zimbabwe, the new regime quickly quelled hopes of widening space for contestation

³⁵ Civic Space Watch (2018): Romania: anti-money laundering agency proposes legislation that increases NGO administrative burdens, under threat of dissolution. Available [here](#).

³⁶ Ibid 26.

³⁷ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

³⁸ CIVICUS (2018): Civil society needs a compelling counter-narrative. Available [here](#).

from opposition and civil society with violence in the aftermath of peaceful elections in 2018, and with a series of extremely violent crackdowns on protestors and internet shutdowns in January 2019. In El Salvador, the ownership of the majority of media platforms and channels lies in the hands of a very small elite. Combined with physical and verbal aggression and intimidation against journalists, this effectively puts in place self-censorship mechanisms. Likewise, in Honduras journalists often face criminal prosecution for defamation and libel, which has a chilling effect on other journalists. Violent dispersion of peaceful protests by civil society have also deterred people in Kenya from exercising their freedom of assembly. In a number of European countries, activists and CSO staff defending minority group rights - particularly Roma and LGBTQI rights - have faced physical attacks and disruptions of their meetings.³⁹

Another powerful political strategy to clamp down on CSOs is through smear campaigns and hateful narratives against civil society, as exemplified by the Kenyan case described above. This includes but goes beyond the adoption of “foreign agents” laws, as described above. For instance, a proposal for an own-initiative report by a German Christian Democrat Member of the European Parliament has called for much more monitoring and restrictions on NGOs receiving EU funding, castigating NGOs as unaccountable lobbyists abusing EU funding.⁴⁰ While this was not passed, it amplified anti-pluralist narratives that denounce civil society as unaccountable lobbyists that do not serve the public interest.

More widely across Europe, civil society’s response to the refugee humanitarian crisis has been met with hateful rhetoric and even criminal persecution of CSOs and volunteers. CSOs have been accused by far-right politicians for supporting human smugglers, for instance, and some humanitarian actors have been charged for rescuing people in the Mediterranean. This has gone hand in hand with a shift in attitudes on NGOs and CSOs engaging with migrants and refugees.⁴¹

The smear-campaign against foreign-funded NGOs and against George Soros in Hungary are illustrative of the power of anti-CSO narratives in shrinking democratic space. In addition to a foreign agents CSO law, billboards disparaging George Soros were set up all over Hungary. The smear campaign paved the way for the closure of the Soros-founded Central European University through the amendment of the higher education law targeting foreign universities.⁴²

³⁹ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

⁴⁰ European Parliament (2017): Draft report on budgetary control of financing NGOs from the EU budget(2015/2345(INI)). Available [here](#).

⁴¹ Vosyliute, L. & Conte, C. (2019) : Crackdown on NGOs and volunteers helping refugees and other migrants. Available [here](#).

⁴² Fee, S. (2018): Hungary’s Anti-George Soros Campaign Is A Cautionary Tale For The U.S. Available [here](#).

Smear-campaigns and the strategic undermining of democratic actors' credibility disrupts civic space and creates an unlevel playing field (to which the next section turns). As smear campaigns are often not illegal and spread at an incredibly fast pace, they are very difficult to counter for both activists, CSOs, political parties or candidates, and other civic actors. A lot of this takes place on social media, focused on delegitimising the person's work, the people they are associated with, or attacking them through their private life. Women are particularly at risk. Evidence suggests that there may be a connection between hostile discourse and physical attacks.^{43 44} In addition to the physical harms associated with this, it is clear from interviews and legal evidence that smear campaigns have a chilling effect on activists.

In other cases, fundamental freedoms may be guaranteed but are not enjoyed by particular groups in society. In Indonesia, religious minorities, atheists, LGBTQ+ and Papuans do not enjoy the same level of protection and the same civil rights and freedoms as Muslim Indonesians. In 2016, demonstrations in Papua demanding an independence referendum saw thousands of Papuans arrested and several charged with treason. LGBTQ+ people and activists, Ahmadis and Shi'ites face an increasing number of religiously motivated attacks, and do not enjoy the same protection by the police.⁴⁵ Amnesty International similarly finds that certain voices, often of activists, women HRDs, LGBTI groups and certain minorities, are being silenced as part of a strategy to shrink civic space.⁴⁶

Generally, the government in power is the main perpetrator of such attacks on civic space. Political strategies can, however, also be deployed by non-governmental groups, such as private companies, anti-pluralist civil society and opposition groups. In Europe, for instance, far right parties - even when not in power - have used political strategies to limit civic space, through an anti-pluralist narrative that attacks the legitimacy of CSOs. In other cases, violent non-state actors are the main perpetrators of attacks on fundamental freedoms. In El Salvador, freedom of association and assembly are guaranteed by law, but in practice restricted by illegal armed groups who operate as veto actors in the territories they control. They thereby directly restrict the exercise of freedoms and indirectly impose limitations through intimidation and fear-mongering.

⁴³ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

⁴⁴ EU Agency for Fundamental Rights (2018): Challenges facing civil society working on human rights in the EU. Available [here](#).

⁴⁵ Bertelsmann Transformation Index (2018): Indonesia Country Report. Available [here](#).

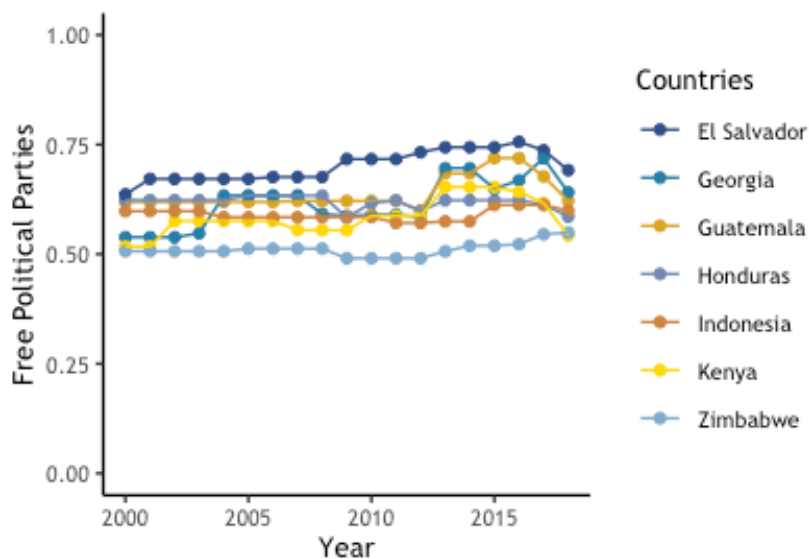
⁴⁶ Amnesty International (2019): Laws designed to silence: the global crackdown on civil society organizations. Available [here](#).

2.2. Creating an uneven playing field

A second tactic for restricting democratic space is the creation of an uneven playing field for political participation and contestation, thereby limiting the inclusiveness of electoral and policy-making processes, and greatly reducing the representativeness of the government. While the openness and degree of a level political playing field is hard to capture in quantitative indicators, the figures below on the freedom of political parties and cleanliness of elections provide some insight into the dynamics in different countries over time. Most tellingly, the figure shows that generally there have been only limited improvements in the freedom of political parties, despite improvements in Guatemala, Georgia and Kenya from 2011 to 2017, followed by deteriorations in all cases after 2017. Kenya, Zimbabwe and Honduras suffer from the least transparent and fair elections out of the case studies analysed in this report, while improvements are observed in El Salvador and Guatemala. It is clear that this indicator is very volatile over time, showing the ease at which authoritarian governments resort to electoral interference for restricting democratic space. The case of El Salvador is telling in this regard, as a rapid decline can be observed in the last year - a period not covered by the graph below yet - with the president using the military to force the parliament into approving a loan to pay for security equipment.⁴⁷

⁴⁷ Agren, D. (2020): Nayib Bukele's military stunt raises alarming memories in El Salvador. The Guardian. Available [here](#).

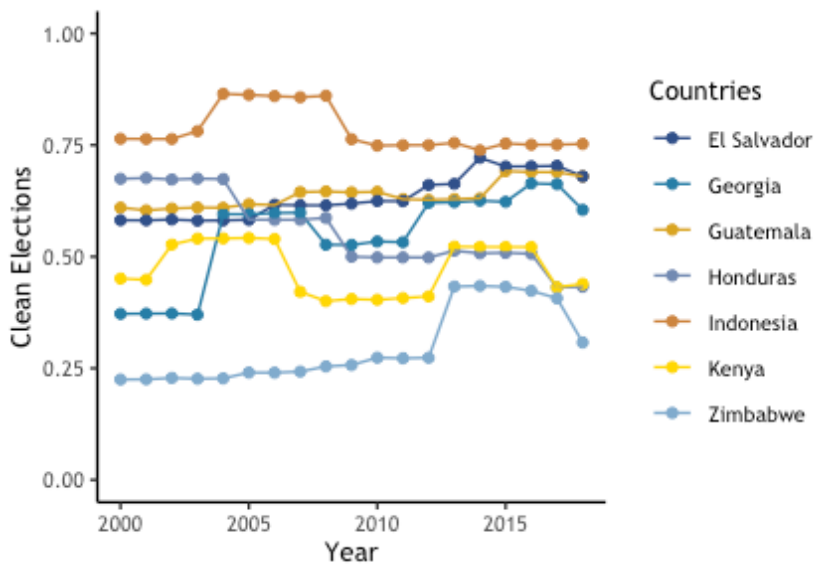
Figure 2: Free Political Parties



All scoring runs from 0 to 1, with 1 representing the highest achievement.

Source: International IDEA, Global State of Democracy Indices. The Free Political Party indicator focuses on the extent parties are free to form, campaign and run for elections. Available [here](#).

Figure 3: Clean Elections from 2000-2018



All scoring runs from 0 to 1, with 1 representing the highest achievement.

Source: International IDEA, Global State of Democracy Indices. The Free Political Party indicator focuses on the extent parties are free to form, campaign and run for elections. Available [here](#).

Abuse of state resources and institutions

A frequently used tactic for creating an unlevel playing field is the abuse of state resources and institutions by the ruling party, as it provides the ruling party with an unfair economic and political advantage. This ranges from the selective enforcement of electoral law by the electoral management body to the usage of development programmes and financial means of the state for electoral gain.

For instance, ahead of the 2013 and the 2017 elections, the Honduran government implemented a programme nick-named ‘Bonus 10.000’, where families in precarious economic situations received cash transfers by the government conditional on health center checkups or school enrollment of their children. Researchers studying the Bonus 10.000 programme in Honduras after the 2013 elections showed that the lump-sum transfers had substantial political consequences, as recipients felt obliged to reciprocate to the government - and thus the ruling party.⁴⁸ The size and timing of the payment closest to the election had a major impact. This is particularly important considering they found a substantial number of transfers were delayed and larger than prescribed. The case study found that for the 2017 elections, several politicians overtly used the cash transfer to request a vote in return.

The abuse of development projects or social benefits for increasing the popularity of the government ahead of elections is not unique to Honduras, but a recurring phenomenon. In Kenya, the ruling Jubilee party symbolically launched development projects in the constituencies that voted for them, thereby coopting opposition legislators to work with them “so that their constituencies can ‘access development’”.

A majority of case studies also demonstrate that the ruling party had more tools and resources at their disposal for campaigning than the opposition in each election. In Zimbabwe, this was blatantly obvious in the 2018 election, with even the EU Election Observation Mission noting the extreme disparities in resources between the ruling party and the opposition alliance.⁴⁹ The ruling party is even said to have gone into major national debt with campaign investments in 2018, abusing state resources for party survival.⁵⁰ Such abuse of state resources by the political players in power - for their own political survival - is the most common way of creating an uneven playing field.

A less direct way for the ruling party to tip the scales in their favour is by exerting influence over other state institutions and governmental bodies, in particular the electoral management body. This is often reflected in the refusal to implement existing laws that regulate political parties’ campaigning, financing and operations. Electoral management bodies are often under pressure not

⁴⁸ Galiani, S. et al. (2018): Voter response to peak and end transfers: evidence from a conditional cash transfer experiment. Working paper 22588, National Bureau of Economic Research. Available [here](#).

⁴⁹ Final Report, Republic of Zimbabwe, Harmonised Elections 2018. Available [here](#).

⁵⁰ Interview Hugo Knoppert, 20 February 2019, Brussels.

to enforce political party compliance with existing laws and regulations, or to only sanction opposition parties. In other cases, the electoral management body is stripped of its sanctioning powers, or purposefully starved from funding in order to limit operations, such as the monitoring of campaigning. The staff of electoral management bodies may also be a source of government control.

Some examples clarify these manipulative practices. In Georgia, for instance, campaign regulations are unevenly applied, and opposition parties receive most sanctions. Similarly, in El Salvador the high voting threshold needed for officially registering as a party was not applied when the two traditional parties did not reach the threshold, whereas other parties who did not reach the threshold were not allowed to compete in elections. In Zimbabwe, the electoral commission is filled with former security personnel, and any regulations need to be approved by the minister of justice (from the ruling party).

In Kenya, the ruling party has been delaying the enactment and implementation of the Election Campaign Financing Act of 2013 for two electoral cycles. In practice this has meant that the electoral management body has failed to sanction those political parties (including the party in power) who surpassed campaign expenditure ceilings, and the government has refused to provide the public funding to political parties required by the law. This greatly disadvantages opposition parties and smaller political parties and increases the role of private money in politics.

When there is no real separation of powers, the ruling party can pressure all other public authorities and administrative bodies. In Georgia, for instance, local administrations have hindered opposition parties' efforts to meet the electorate by denying them access to key venues through citing various bureaucratic impediments. But it goes further than that, as ruling parties can also abuse their legislative powers to make legal changes that entrench their own dominant position, for instance through electoral reforms.

Reforming electoral and party law

The constitution and electoral and party laws set the rules of the game for political contestation and a reform of these rules can create an environment where fair contestation cannot take place. As a result, electoral and constitutional reforms are a tactic favoured by democratically elected parties who wish to limit competition and bias future elections towards their eventual victory.

Since its adoption in 1995, the Georgian Constitution has been amended 33 times, meaning the Constitution was changed more than once a year on average. These changes have included several major overhauls of the electoral system. Electoral provisions, including electoral district borders and campaign finance rules, were changed ahead of all national elections sometimes too close to the election day for people to know which the precise rules were. Electoral law has only been consistent in disfavoring smaller parties and helping ruling parties extend their own grip on power.

The reform of political party laws and electoral laws to fit the preferences of the ruling party is a recurring tactic to create an uneven playing field. In many cases, political parties are free to exist and operate, without any legal hurdles that prevent participation and without any obvious manipulation or rigging of elections. However, the electoral system and campaign regulations put opposition parties at a major disadvantage vis-à-vis the incumbent as the rules of the game ensure power remains concentrated in the hands of a small political elite. The electoral process is then rendered meaningless as it is not representative, inclusive or participatory.

Reforms of electoral law can often restrict space for contestation through high barriers to entry, either through registration requirements or the electoral threshold (Georgia, El Salvador, Indonesia, Guatemala). In Indonesia, for instance, the verification process for parties to participate in elections became so strict in 2014 that the number of political parties decreased from 48 to 12. This allows big parties - both ruling parties and major opposition parties - to maintain their dominance, while limiting the ability of small and new political parties to compete. In Guatemala, such high barriers to entry are combined with highly flexible operating requirements, giving established political parties a pass on poor performance on transparent campaigning and inclusiveness, while ruling out competition from new players. This greatly restricts the options available for voters and political contestation in general.

The purposeful obstruction of reform may also be a strategy adopted to maintain the existing unlevel playing field. In many countries such a problematic regulatory system was inherited from the past, so one cannot speak of a major attack on the political playing field. For instance, the electoral framework of Guatemala was a remnant of the end of the Civil War which reproduced a cycle of crises - until the reforms in 2016 brought about some change. In such cases, the attack on democratic space occurs through the efforts to prevent reform and uphold the status quo. In Guatemala, for instance, many political parties tried for over 30 years to preserve closed electoral lists, as these gave complete control to parties and deprived citizens of true electoral accountability mechanisms. In El Salvador, the case study concluded that “the electoral system had been designed as a cartel to keep those who are part of it in competition and to keep outsiders away”.⁵¹

One detrimental result of such skewed electoral systems is that voting becomes the least effective way to effect change. “While groups of citizens may be free in formulating and articulating their preferences, the tilted electoral rules bear negatively on weighing those preferences equally in the conduct of the government”.⁵² This strips electoral processes of their functions for enabling participation, accountability and representation.

⁵¹ See El Salvador case study summary, Annex 6.2

⁵² See Georgia case study summary, Annex 6.4

Campaign finance and money in politics

Excessive and opaque political party and campaign finance - particularly with private sector funds - can also skew the political playing field and lead to corrupt decision-making. The case of El Salvador is particularly illustrative of the risks of large sums of private sector money fuelling political party campaigns. While party financing is provided by the state, the only way to overcome the disproportionately high electoral barrier and nearly impossible procedure for securing accreditation from the Supreme Court is through large financial investments in campaigning. As a result, political contenders are incentivised to seek and accept private sector financing as well as illegal financing. This makes political actors dependent on and accountable to those private sector actors funding their campaign, rather than to their electorate or rank-and-file members. This has a very real impact on policy-making in El Salvador: water exploitation policies and the deregulation of water pollution are a direct result of the sugar sector's lobbying and financial support to ruling parties in the past.⁵³

Political party and campaign finance are regulated very differently in different countries, with some countries detailing parties' income and expenditures very minutely (e.g. Belgium), and others with no regulation at all (e.g. The Netherlands for local political parties). Even when solid transparency rules are in place, the case studies of Kenya and Indonesia show that they might not necessarily be enforced at all, or that they are being applied unevenly, due to the cooptation or pressuring of the electoral management body.

In the absence of party or campaign finance regulations, political parties often resort to private and even illicit sources of funding for their campaigns. However, a lack of transparency in combination with high sums of private funding comes with a number of risks for fair electoral competition and the basic tenets of democratic processes more generally. By the same token, a lack of transparency regarding party financing also opens the door to criminal networks and illicit financing in the political arena. In Honduras, organised criminal networks have infiltrated into political elites with illicit financial support, thereby completely distorting electoral competition, ensuring impunity and coopting officials in local and national authorities. Political parties then become even more opaque in their financing, which impacts their credibility and accountability towards citizens. This spiral of opaque financing has led Guatemalan elections to become one of the most expensive in the region. In Kenya, opaque funding also engenders violence by making it easy for politicians to hire private militias.

The problems with such opaque private and illicit finance in political parties are manifold. First of all, it shrinks the space for contestation and limits it to only those who can mobilise enough resources. This creates an uneven space for contestation and immediately excludes certain political interest

⁵³ See also this blog from Heleen Schroyen on water policy and the COVID-19 crisis in Central America, available [here](#).

groups and population groups at the expense of those with wealthy connections. As shown by research from the Westminster Foundation for Democracy, the heightened role of money in politics disproportionately affects and excludes women, youth, people with disabilities and minorities.⁵⁴

In addition, such a system incentivises parties to seek funding from private and even criminal groupings who will expect certain policies or impunity for their crimes in return. This creates “a kind of market for legislative decisions, based on the purchase of deputies or the distribution of public institutions”.⁵⁵ Policies then reflect the interests of party funders rather than the electorate, as parties are accountable to those who have invested in their electoral victory. It also stimulates rent-seeking behaviour, as it rids parties of ideological positions and turns them into temporary vehicles to attain elected office and thereby power and wealth, without any commitments to the party’s policy agenda or the electorate. This completely divests elections of their meaning and function as an accountability and participatory mechanism ensuring inclusive representation.

2.3 Rule of law, separation of powers and impunity

A third tactic to close democratic space that was identified in the case studies is the undermining of the rule of law. As the separation of powers and system of checks and balances requires an independent judiciary, the judiciary was a primary target of efforts to undermine democratic space. Closely related to the independence of the judiciary is the purposeful perpetuation of an environment of systematic impunity, particularly of crimes against human rights defenders and critical political voices. As the rule of law is critical for upholding a level political playing field and protecting fundamental rights, this tactic is intimately connected to attacks on civic space and space for contestation.

Attacking the independence of the judiciary

The independence of the judiciary is critical for defending fundamental freedoms and upholding constitutionalism and is therefore a primary target of attacks on democratic space. In September 2019, the UN-backed International Commission against Impunity in Guatemala (CICIG) closed down after 12 years in operations, in which it investigated and prosecuted corruption at the highest levels of government, including a president and vice-president.⁵⁶ The institution enjoyed widespread public support, but came under attack from President Morales when it opened an investigation into the President’s brother and son in 2017. As a result of ongoing political pressure, the anti-corruption body was forced to leave the country, amid widespread concerns from rights activists.

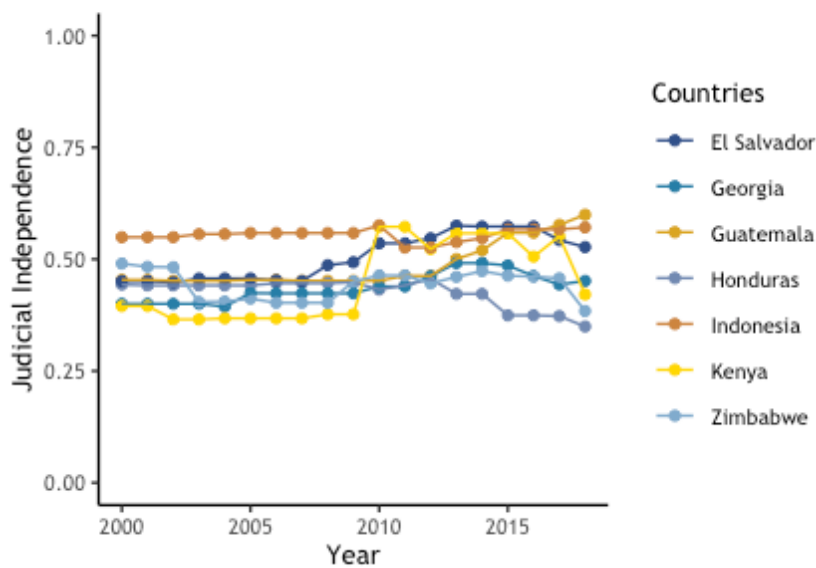
⁵⁴ Westminster Foundation for Democracy (2017): *Cost of Politics - Synthesis Report*. Available [here](#).

⁵⁵ See El Salvador case study summary, Annex 6.2

⁵⁶ Al Jazeera, 2019: Guatemala’s CICIG: UN-backed anti-corruption body shuts its doors. Available [here](#).

While most countries' constitution guarantees the separation of powers, in practice many actors actively try controlling other state institutions as part of a strategy to shrink democratic space. The judiciary is the prime target of such attacks on institutions' independence, often through the appointment of political figures and the dismissal of independent judges from judicial bodies such as the Supreme Court, as in Georgia and Honduras. In countries like Zimbabwe where the judiciary retains some level of independence, some judges may still uphold constitutionalism, but politically sensitive cases are given to partial judges. Anti-corruption bodies may also be under attack for their investigative powers, as in the case of Guatemala described above. When such a lack of separation of powers takes root and all state institutions and political actors are complicit, as in El Salvador, "different powers and institutions with the power to control or monitor, cover each other to evade responsibility."⁵⁷

Figure 4: Judicial Independence from 2000-2018



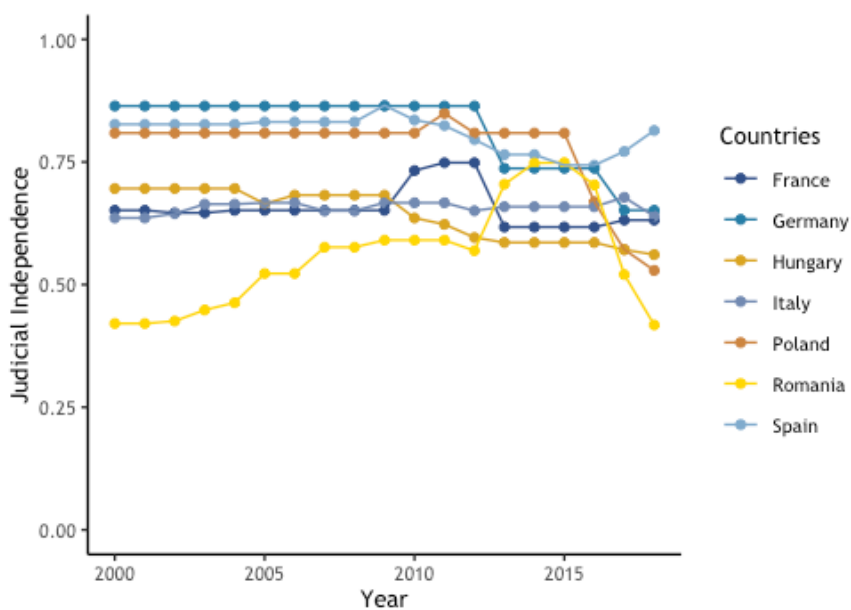
All scoring runs from 0 to 1, with 1 representing the highest achievement.
 Source: International IDEA, Global State of Democracy Indices. Available [here](#).

In Europe, reforms that put the independence of the judiciary at risk have been one of the prime strategies to close democratic space. In 2018, the Hungarian government passed a law that would

⁵⁷ Netherlands Institute for Multiparty Democracy (2017): El Salvador case study.

create a parallel court system under the direct control of the Minister of Justice, who would be empowered to appoint judges and decide on budgets without any oversight.⁵⁸ In Poland, a similar law was passed in 2015 to give the Ministry of Justice the exclusive power to dismiss and appoint Presidents and Vice-Presidents of courts, and the retirement age of judges was changed to purge the supreme court.⁵⁹ In response to pressure from the EU, which is investigating breaches of the rule of law in Hungary and Poland, Hungary withdrew the law. The figure below illustrates the gradual regression in judicial independence in Hungary and in Germany, as well as a sharp decline in recent years in Romania and Poland.

Figure 5: Judicial Independence from 2000-2018 in Europe



All scoring runs from 0 to 1, with 1 representing the highest achievement.
 Source: International IDEA, Global State of Democracy Indices. Available [here](#).

Impunity

Such a crackdown on the independence of the judiciary is especially harmful when it goes hand in hand with impunity for human rights violations and crimes against human rights defenders, journalists, civil society leaders and other public figures (as in Honduras, El Salvador, Indonesia). In Honduras, out of 68 violent deaths of people in the media sector in 2001-2016, 62 cases have gone

⁵⁸ Human Rights Watch (2018): Hungary's latest assault on the judiciary. Available [here](#).

⁵⁹ Netherlands Helsinki Committee (2019): Struggle for the Rule of Law in Poland Continues. Available [here](#).

unpunished. These included people linked to the media, including journalists, broadcasters, photographers, cameramen and media owners. Another targeted group are land and environmental rights defenders, of whom 123 were killed between 2009 to 2016. These murders only rarely lead to any convictions.⁶⁰ The inability of the Courts to process such cases may reflect that they have been co-opted or purposefully incapacitated by criminal or political interest groups or the state. Such impunity further exacerbates the failure in upholding the rule of law.

Security and police forces also play an important role in enforcing the rule of law. However, these very same groups are all too often the perpetrators of human rights violations, particularly in a conflict affected setting. In one emblematic case, a female police officer in El Salvador was murdered by a colleague after a Christmas party, and other fellow police officers covered up the case. Other than the dissolution of the group, nobody took political responsibility or resigned, and it took months before the body was found. Human rights violations by the police during armed conflict - be it in East Timor or in El Salvador - very often go unpunished. In fact, Indonesia adopted a law that effectively guarantees impunity for crimes committed by the police, by prohibiting law enforcement agencies from investigating a police officer without the pre-approval of the national police chief.

Impact of the failure to uphold the rule of law

Such a failure to uphold the rule of law and punish those perpetrating violent crimes erodes the social contract, as people retreat from the public sphere and lose trust in state institutions and political processes. It also has a major chilling effect on public figures such as journalists, CSOs, HRDs, opposition parties and other dissenting voices. Attacks on the judiciary and the presence of a climate of impunity erode civic and democratic space precisely because they undermine the notion of accountability as well as the ability of democratic institutions to undertake their core functions.

Attacks on the independence of the judiciary are also strongly linked to the creation of an uneven political playing field and attacks on civic freedoms. That is because a neutral arbiter is necessary for, *inter alia*, resolving cases involving political parties, electoral disputes, as well as the constitutionality of laws restricting space for CSOs and cases on media ownership. When the supposedly neutral arbiter is managed by political appointees, it becomes exceedingly difficult for civil society and opposition parties to protect democratic space. Political candidates can be excluded from participating in elections, for instance, based on fake complaints to a partisan judiciary - a phenomenon called the “judicialisation of politics” in Guatemala.

⁶⁰ Latin American Working Group Education Fund, 2017: Honduras: Space for Activists and Journalists Closing, Wide Open for Corruption. Available [here](#).

On the other hand, a strong judiciary can be a champion and defender of the rule of law and constitutionalism, empowering civil society to reverse restrictive laws. Kenyan civil society has made extensive use of the progressive constitution and independent judiciary as a buffer against closing democratic space - which, for instance, declared an amendment to the Information Communications Act passed in 2013 unconstitutional.⁶¹ In addition, the Kenyan constitution provides for fairly user-friendly mechanism through which citizens can petition courts, parliament, the independent commissions and other government agencies. Parliamentary committees are also compelled to undertake public consultations before finalising legislation and citizens can provide input through county budget and economic fora.

⁶¹ More information on the decision is available [here](#).



3.

Main Actors

The picture that emerges from the case studies show that democratic space is not simply closed by those in power and defended by opposition and civil society. In reality, a variety of actors play multiple roles in the defending and attacking of democratic space. Some unexpected actors were criminal groups and business elites, for instance, who hold considerable power over democratic space - particularly when they have close ties with political elites. In addition, the case studies shed light on the multiple and ambiguous roles of political parties. In certain circumstances, opposition parties would defend democratic space, whereas in other circumstances even opposition parties closed space for contestation. In all cases, civil society - in and of themselves a heterogeneous group - are on the frontline of the battle for democratic space, with varying degrees of success. This points to the need for a comprehensive understanding of democratic space, where coalitions for change are mobilised on a case-by-case basis.

3.1 Political parties' contested role

Political parties play a dual role in the closing of democratic space. On the one hand, political parties can be the ones actively or passively shrinking democratic space. In a number of the cases under examination, both ruling and opposition parties were either pro-actively and directly changing the rules of the game for their own benefit, or passively and indirectly safeguarding a closing, corrupted system. On the other hand, opposition parties are at times also the ones widening the space for contestation and standing up for civic freedoms. Looking into the incentives for such behaviour sheds light on some of the underlying dynamics to political parties' dual role in the closing space for contestation.

Ambiguous role

While ruling parties may have incentives to change the rules of the game to retain their position, one would assume opposition parties actively defend democratic space. After all, it is only through democratic checks and balances that they can compete fairly in the political arena and stand a chance at challenging the incumbent. This seems to be true for smaller political parties, who defended constitutionalism and fought for a level playing field in different case studies. In Kenya, for instance, small parties have used dialogue mechanisms to lower the compliance threshold for competing in elections and qualifying for state funding. At the same time, the ruling party may also use the legitimacy of smaller political parties to create the illusion of contestation and inclusiveness, as was the case in Zimbabwe. The Zimbabwean ruling party set up its own platform for interparty dialogue, which lacks the participation of the main opposition party, thereby making it largely irrelevant as a platform of contestation.

In other cases, a cross-party alliance of both the governing party and the main opposition parties joined forces to safeguard the level playing field. In Honduras, for instance, an alliance of political parties passed a much-needed political party regulation that would restrict their own campaign spending and require higher levels of transparency, as all parties acknowledged electoral violence was to be expected under another election with the same rules. However, in several case studies, large opposition parties have also actively restricted democratic space whenever they have spied an opportunity to gain political capital or perceive a direct threat to their interest. This happens sometimes in coordination with a governing party, showing that there is an elite party system, based on established parties that want to keep newcomers out.

Commercialisation & polarisation

The case studies highlight the importance of patronage and clientelist networks, which contribute to the “commercialisation of political parties” who “act and function like they are corporations”.⁶² A number of case studies stressed that politicians appreciate democracy not for its intrinsic value but as an instrument for accessing political office and the concomitant economic benefits. Through practices of patronage and clientelism, further fueled by private funding in election campaigns, democratic contestation is reduced to a set of transactions.

As parties lose their ideological orientation and the commitment to the intrinsic value of democracy, the option to close democratic space becomes attractive as a way to limit the competition for power and resources. Zero-sum elections then further incentivise the pro-active shrinking of space for contestation and limit the capacity of opposition parties to push back on such restrictive measures and generate compromise. This was particularly obvious and harmful in the case of El Salvador and

⁶² See Indonesia case study summary, Annex 6.3

an evolving trend in Indonesia and Kenya, with a somewhat limited impact on the closing of democratic space for the moment.

Within such a context of low commitment to democratic values and practices, political parties have incentives to mobilise their electorate with polarising narratives rather than policy proposals. The instrumentalisation of ethnicity in elections in Kenya is not so dissimilar in this regard from the exclusionary rhetoric of anti-pluralist, nativist parties in Europe. Parties such as the Rassemblement Nationale (former Front Nationale) in France or the Peace and Justice Party in Poland thrive on the promise of safeguarding a very restricted notion of the nation from the identity threat posed by refugees, migrants, Muslims and other external influences. Xenophobic parties using a polarising rhetoric have rapidly gained ground in Europe over the last decade. As stated in a study by the European Political Strategy Centre, “once in government, populists regularly use their democratic mandate to undermine the very institutions that got them into office in the first place, for instance by compromising judicial independence or media freedom.”⁶³

As shown in the Georgia case study, such polarisation - similar to that of Western Europe - limits representation. “Ruling parties and (the) biggest opposition parties may be interested in prolonging a deeply polarised status-quo as (a) means to fend off the challenge from smaller players... The end result of this is a smaller number of capable parties driven by promoting a genuinely democratic agenda”. This is further exacerbated by newly emerging political movements that feed on the xenophobia and nationalism sown by domestic and Russian groups - including demanding for shrinking democratic space through exclusionary citizenship laws and NGO laws. Political parties likewise drive polarisation in Zimbabwe and thereby restrict space for contestation.

Reforming representation

While large parties’ actions to change the rules of the game in their favour are harmful for democratic representation, the case studies show that the existence of a very high number of parties also rids the institution of the political party from its representative function. Guatemala is plagued by a multitude of sham political parties coopted by corrupt and criminal groups. Since 1985, not a single party that has been in power has retained its legitimacy afterwards, with many disappearing completely. Both among citizens and among political parties, the frustrations with the inability of parties to affect real change pushes people to seek other forms of participation. In Guatemala, the lack of possibilities for registration for democratic parties in the 1960’s led to the creation of Civic Committees to nominate mayoral candidates, which were incorporated in the electoral law of 1985 allowing them to participate in municipal elections. In contrast to this positive example stands the case of Georgia where nearly all opposition parties have engaged in extraconstitutional activities to advance their interests, as formal channels of participation do not function in a fair manner. It has also given rise to other unconventional forms of citizen participation (see below).

⁶³ European Political Strategy Centre (2019): 10 trends shaping democracy in a volatile world. Available [here](#).

A recurring problem within political parties is that the shrinking of democratic space goes hand in hand with shrinking opportunities for women, youth, people with disabilities and minority groups to access political power. This negatively impacts the otherwise positive trend for women's representation, as seen in Kenya and Indonesia. It also negatively affects women's rights and policy-making on women's issues, as is clear in Guatemala where political parties tried to weaken the law on femicide - an important instrument in fighting violence against women.

3.2 Citizen and civil society pushback

Civil society has been at the frontline of defending democratic space in all case studies, using a combination of strategies such as lobbying and advocacy, building democratic alliances, petitions, public litigation, awareness raising, mobilization of citizens, street protests and demonstrations. Overall, civil society has been relatively successful at countering specific pieces regressive legislation and pushing for measures to guarantee rights and open up democratic space - particularly considering the restrictive environment in which they're operating. Some examples highlight these successes.

In Kenya, for instance, civil society successfully shelved retrogressive amendments to the *Public Benefits Organizations Act 2013* which would have restricted CSOs' ability to register and operate, by organising demonstrations, lobbying members of parliament, strategically engaging government agencies and public awareness raising campaigns. In the face of a polarised media space around elections, Georgian civil society successfully passed a package that ensures cable TV subscribers can watch all key television channels in the pre-election period even if those channels are not included in the provider's package. Honduran civil society successfully pushed for an act that secured financial support for human rights defenders by the government. In Guatemala, massive protests in 2015 against corrupt politicians led to the resignation of the president and vice president and led to new platforms and networks advocating for clean politics.

These examples show the ingenuity, persistence and impact of organised civil society in defending and expanding democratic space. At the same time, it is important to keep in mind these success cases won't lead to sustained change without the political will to preserve or open up democratic space at the top. The case of Honduras illustrates this well, where civil society's initial success to lobby for the International Mission to Support against Corruption and Impunity (MACCIH) was only temporary, as the MACCIH was later stopped due to the lack of government support.

Emblematic civil society successes

Kenya

Shelved amendments to the Public Benefits Organization Act (2013)

Guatemala

Stopped adoption of reforms to the Penal Code which would safeguard political parties from being charged for electoral funding crimes (2015)

Georgia

Adoption of pre-election "must carry, must offer" package for media pluralism (2012)

Zimbabwe

Built a wide and effective coalition encompassing various non-state actors (including the church) to broaden the basis and inform constitutional reforms (2013).

Honduras

Installation of the Mission to Support against Corruption and Impunity (2016)

In success cases, civil society is generally empowered by a progressive constitution and somewhat independent judiciary to defend democratic space. However, when the judiciary is not independent, it cannot be used to defend constitutionalism and fundamental freedoms, thereby greatly limiting civil society's ability to defend and open up democratic space. This is clearly reflected in the case studies of El Salvador and Guatemala, where citizens have resorted to other forms of influence instead, such as popular mobilisation on the streets and strikes. In Guatemala, a nation-wide strike forced the powerful Congress to withdraw their amendment to the Penal Code that weakened parties' responsibility regarding crimes in electoral funding. Social movements have also arisen in response to the inability of political parties and the judiciary to uphold the constitution. So even in cases where civil society is not backed up by an independent judiciary to uphold the constitution, civil society has been the champion when it comes to defending democratic space.

At the same time, civil society mobilisation has not always been positive for democratic space. Conservative civil society groups have also grown stronger and more effective in actively closing democratic space. In Georgia, a new social movement managed to mobilise thousands to demonstrate in the 'Georgian March', with demands that included a ban on foreign funding to Georgian NGOs and exclusionary citizen and residence regulations. In Europe, certain political parties have thrived mobilising on similar conservative ideologies aiming to exclude particular groups of people, such as migrants or LGBTQ+. What is striking, is that these conservative voices - be it civil society or political parties - have more political space to push back against progressive agendas than they did before.⁶⁴ 5 years ago, these groups have now grown into a part of the mainstream.

⁶⁴ See Youngs, R. et al, (2018): *The Mobilization of Conservative Civil Society*. Available [here](#).

In Europe, for instance, where many had taken women's rights for granted, recent years have seen a growing backlash against gender equality and women's rights.⁶⁵ Populist movements have driven this backlash, together with conservative civil society groups.

Some have considered the pushback against progressive causes and specific groups of people, and the closing of civil society space as two sides of the same coin, while others conceive of it as two very different phenomena. The case studies do not provide any clear answers on this but do indicate that a closing of space for certain progressive forces seems to come with increased acceptance of conservative voices. A prominent book on the rise of conservative civil society stresses that: "in some countries, conservative activism is part of the current threat to democracy, but at the same time this activism is neither necessary to nor sufficient for explanations of democratic regression."⁶⁶ It is important to distinguish between conservative civil society and 'uncivil society', of whom only the latter actively pursue anti-democratic agendas or even endorse violent tactics.

Activating citizens to defend democratic space has, in some countries, been challenging when the violation of fundamental freedoms and democratic principles was not as blatant and obvious to citizens. The gradual and obscure nature of many of the restrictive actions against democratic space means that pro-democracy collective action is not as easily triggered. At the same time, civil society organisations also learn from their counterparts abroad. Civil society organisations in different European countries learned from the closing of democratic space in Poland and Hungary and adapted their strategies accordingly in preparation for closing space.⁶⁷

A recurring obstacle to civil society's ability to organise and mobilise citizens to protect democratic space has been the reduction in donor funds. In all of the case studies, civil society suffered under a reduction in funding from international donors, especially for democracy and advocacy projects. This has greatly limited civil society's ability to counter efforts to shrink space. In addition, some cases exemplified the changing nature of cooperation between donors and civil society: due to a shift from democracy assistance into governance programmes, the government's control over civil society support increased, which limited civil society's ability to play a watchdog role and engage in advocacy. Considering the primary responsibility for shrinking democratic space lies with those controlling government in the cases studied here, this shift is particularly concerning.

⁶⁵ See amongst others: International Planned Parenthood Federation Network Europe (2018): *Compilation of studies on the backlash against women's rights and gender equality and the associated shrinking space for women's rights organisations and defenders in Europe*.

European Parliament, FEMM Committee (2018): *Backlash in Gender Equality and Women's and Girls' Rights*. Available [here](#).

Fundamental Rights Agency (2018): *Challenges facing civil society organisations working on human rights in the EU*. Available [here](#).

Fundamental Rights Agency (2017): *Women's Rights in Turbulent Times: Conclusions of the 2017 Annual Colloquium on Fundamental Rights*. Available [here](#).

⁶⁶ See Youngs, R. et al, (2018): *The Mobilization of Conservative Civil Society*. Available [here](#).

⁶⁷ Negri, G. (2020): *How European civil society is pushing back against democratic erosion*. Carnegie Europe. Available [here](#).

3.3 Other non-state actors: business, violent gangs and organised crime

Other domestic non-state actors also have a major impact on shrinking democratic space, namely businesses, violent gangs and organised criminal networks. The cases of El Salvador and Honduras show how criminal networks and violent gangs have coopted many elected representatives and people in important government positions. There is no shortage of evidence. In El Salvador, for instance, journalistic investigations have revealed the Ministry of Public Security negotiated a \$10 million credit programme with gangs.

Such embedded violence and criminality not only ensure a complete breakdown of the rule of law, but it also limits the exercise of civil and political rights. Self-censorship becomes the norm in a climate of generally accepted violence, where journalists, human rights defenders and minorities can be murdered without repercussions for the perpetrators. In Honduras, not only many journalists and LGBTQ people, but also a number of political candidates and activists have been murdered or subjected to violence and intimidation.

In a similar, albeit less violent, manner, business elites have infiltrated formal power structures through private financing and campaign sponsorship in the cases of Guatemala, Honduras, El Salvador and Georgia. They thereby make elected representatives accountable to these private business interests, rather than to their electorate. As detailed above, this greatly impacts the inclusiveness of policy processes, undermines the representativeness of government and hollows out the electoral process. Non-state actors such as criminal groups and business elites thus have a major impact on shrinking democratic space, in particular when they are closely embedded within the formal political structures and elite-circles.

3.4 Russian, Chinese and regional authoritarian influence

A number of case studies underline that the state of democratic space in neighbouring countries also has an important impact on democratic space. In Kenya, for instance, the ruling party has learned from other governments in the region and replicated others' frameworks and practices to limit civic space. In Georgia, this is particularly problematic considering the rapid autocratisation of Turkey and Azerbaijan, but also the weighty influence wielded by Russia.

Rather than passively setting an example for those in Georgia wanting to shrink democratic space, Russian actors have proactively employed soft power tools to weaken and discredit (the so-called 'western' narrative of) democracy, and thereby strengthen those national actors that seek to close democratic space. Through propaganda and financial support to anti-globalisation, xenophobic and nationalist groups, Russia taps into existing unease from those population groups who have not benefited from globalisation. Russia thereby rides the wave of a widely-shared disillusionment with

politics globally, claiming that democratic countries in the West are just as flawed as authoritarian regimes.

In Europe, such a Russian-sponsored narrative similarly taps into and supports anti-democratic movements and far-right political parties. Soft power tools such as Russian propaganda and disinformation on social media are the main method of interference in Europe. Proof of Russian disinformation during the European Parliament and other national elections is rife, and there are allegations of Russian meddling in the UK's Brexit referendum. In addition, certain elected political leaders in Eastern Europe have close ties to Russia, such as Czech President Zeman and politicians within the Lega Party in Italy and the Rassemblement National in France. Russia's role in shrinking democratic space is thus particularly powerful in its neighbourhood.

China, on the other hand, has played an important role in sub-Saharan African countries, exemplified here by the case of Zimbabwe. China is Zimbabwe's biggest investor, limited not only to diamond mining, but even the building of the Zimbabwean Parliament and the Intelligence Services buildings. Even more worrying is Chinese investment in surveillance technology, particularly the artificial intelligence powered national facial recognition database that is currently being developed by a Chinese company in Zimbabwe.⁶⁸

The global pandemic has seen China boosting its diplomacy efforts, notably by sending medical assistance and supplies to other heavily affected countries. For instance, China sent planeloads of equipment and six medical experts to Serbia, fueling tension between Serbia and the EU on the lack of EU support and accession-issues.⁶⁹ The EU, on the other hand, has been late in assistance to its own member states and aspiring member states in the Western Balkans, with Chinese support arriving earlier.⁷⁰ China has also actively tried to influence the narrative on the origin of the virus and the effectiveness of different governments and regime types in dealing with the virus. Chinese influence globally is expected to increase further as a result of the crisis, particularly in its spheres of influence in Africa, Eastern Europe, Latin America and South-East Asia.⁷¹

⁶⁸ Biometric Update (2018): Implementation of CloudWalk facial recognition technology in Zimbabwe progressing in stages. Available [here](#).

⁶⁹ Walker, S. (2020): Coronavirus diplomacy: how Russia, China and EU vie to win over Serbia. The Guardian. Available [here](#).

⁷⁰ Economist Intelligence Unit (2020): Geopolitics after Covid-19: is the pandemic a turning point? Available [here](#).

⁷¹ Economist Intelligence Unit (2020): Geopolitics after Covid-19: is the pandemic a turning point? Available [here](#).

3.5 International donors

International donors can play a major role in capacitating civil society and political actors to defend and expand democratic space, in addition to their diplomatic leverage as global political players. The case of Georgia illustrates this well. Through cooperation under the EU-Georgia Association Agreement and the Visa Waiver decision, the EU has encouraged two successive ruling parties to implement substantial reforms in the justice system, public administration and human rights framework. In addition, the Venice Commission of the Council of Europe has played a major role in protecting democratic space through its opinions on the ongoing constitutional reform. This shows the potential impact of a coordinated and strategic approach to supporting democratic space in countries where the EU has such incentive mechanisms.

When it comes to strengthening civil society, however, trends among European donors have not been so supportive of democratic space and those who defend it. In Kenya, Zimbabwe and Indonesia, shifting donor priorities have resulted in a reduced amount of resources for civil society. Within this restricted funding pool, there has been less appetite for watchdog-like activities, and more for governance support and technical support to civil society for contributing to government-led processes. In Kenya and Indonesia, this trend has been particularly strong among the bigger donors, while smaller donors have continued support to CSOs in a more political manner. In Zimbabwe, the sudden reduction in funding after 2013 has greatly limited CSOs' ability to defend democratic space and has created competition for scarce resources between different CSOs.

In Kenya and Indonesia, the shift in funding away from critical CSOs, towards government-led agendas for change and governance assistance has resulted in part from an apparent improvement in the state of democracy. In addition, both countries grew economically from lower income countries to middle-income countries, which also significantly reduced the amount of funding provided by donors. Latin American countries have faced the same problem. However, the difficulties civil society face in countering shrinking democratic space and coping with the reduced amount of funding points to the need for donors to remain engaged with civil society on such activities. By giving the government control over the type of assistance provided to civil society, donors limit the ability of CSOs to effectively influence policy and maintain critical functions as a counterbalance to the state.

In Zimbabwe, the EU's political strategy of reengagement with the government resulted from a perceived political opening and was in principle welcomed by Zimbabwean civil society. However, its narrow scope was overly focused on pushing for 'constructive engagement' of Zimbabwean civil society with the government - rather than fulfilling their role as a watchdog - at a time when democratic space was still very clearly under attack. The relationship between Zimbabwean civil society and donors sometimes became uneasy, as donors frequently accused civil society of being partisan and against the government. The incoherence of donors' political agenda's in combination

with a tenuous relationship with civil society negatively impacted civil society's ability to defend democratic space.

What is clear is that where European donors were unable to defend democratic space, it was because other interests were prioritised over the defense of democratic space, and that European donors lack a common approach to identifying and countering attacks on democratic space. This is reflected in the predominantly technical - rather than political - response to closing democratic space. The reduction in funding at a time of closing democratic space and the shift away from support to advocacy activities towards government-led agendas is testament to this more technical response. In cases where political pressure could have made a difference - as in Guatemala when the US left a vacuum for defending the CICIG - European donors failed to use their political weight to successfully defend democratic space. A careful wait-and-see approach and reengagement agenda with an authoritarian government - as in the case of Zimbabwe - does not adapt well to the gradual erosive effects of closing democratic space. Particularly in the face of an increasingly assertive China and Russia, European donors need to proactively defend democratic space in a political manner, using all political tools at their disposal.

The exception to these trends among European donors has been Sweden, who launched a 'drive for democracy' initiative in 2019 to strengthen Sweden's work on promoting democratic space. Sweden has long embraced an approach to closing space as one of democratic space, which includes but goes beyond the notion of civic space. An essential component of the 'drive for democracy' is the increased support for 'voice-bearers' to advocate for inclusive policy, including civil society organisations, as well as human rights defenders, political parties, research institutions, and network-based movements and associations.⁷² This model of engagement with civil society has been unique, with flexible 5-year agreement periods and core funding as a default mechanism of support.⁷³ The Swedish approach to closing space offers an practical and coherent model for a potential European approach to democratic space.

⁷² Sida (2020): Written communication: Sida's work with democracy in development cooperation.

⁷³ Presentation by Karin Fällman, SIDA. 4 March 2020, Permanent Representation of Sweden to the EU, Brussels.



4.

Conclusion

While the 7 case studies vary significantly, they provide specific insight into the phenomenon of shrinking space and its implications for action in different country contexts. More specifically, the cases outline the different strategies for shrinking space and the nature of the phenomenon, and the actors defending and attacking space. The following findings cut across continents and specific socio-economic contexts:

1. What strategies are used to shrink space?

- a) Attacks on civic space,
- b) Creating an uneven political playing field,
- c) Undermining the rule of law and judiciary;

2. What does shrinking democratic space look like?

- a) Closing space is a multifaceted and non-linear phenomenon;
- b) Space is being eroded gradually and not only through clearly identifiable attacks;
- c) It is a global phenomenon;

3. Who is shrinking and defending space?

- a) Ruling parties are the main but not only perpetrator, with a dual role for opposition parties;
- b) Civil society is the main target of attacks and the main actor defending democratic space.

1. Three strategies for closing space which underline the links between civic space and broader political contestation

The case studies pointed to three closely interlinked strategies for closing space: shrinking civic space, creating an uneven political playing field and undermining the rule of law.

A. Civic space is under attack through three types of measures that undermine the right to freedom of association, assembly, expression and press of citizens, civil society and media actors.

- ⇒ *Legislative measures* target the legal framework for CSOs and thereby restrict CSOs' ability to operate through administrative requirements, CSOs' access to funding, their thematic focus, or silence specific voices that are deemed unacceptable. Legislative restrictions limiting freedom of expression and press include licensing rules and laws criminalising the distribution of certain types of content.
- ⇒ *Administrative measures* include the politicised implementation of existing laws, the refusal to operationalise certain laws, and the usage of vague or old legislation to harass CSOs.
- ⇒ *Extra-legal measures* include violence, intimidation, trumped-up charges against activists and journalists, reductions in public funding and rhetorical attacks to undermine the legitimacy of civil society.

B. The political playing field is often being tilted in favour of the incumbent or specific interest groups, thereby making meaningful contestation in elections and participation in policy-making exceedingly difficult for opposition parties and civil society groups.

- ⇒ *The abuse of state resources and institutions* by the political players in power includes the usage of the state's financial resources for the ruling party's electoral gain, as well as the pressuring of other state institutions and governmental bodies - in particular the electoral management body - to tip the balance in the ruling party's favour.
- ⇒ *The reform of electoral and party law* often entails the creation of high barriers to entry, either through registration requirements or the electoral threshold. It may also take the form of the purposeful obstruction of reform in favour of a small political elite.
- ⇒ Through excessive *campaign finance and money in politics*, the political playing field is being tilted in favour of particular political parties, business elites and even criminal interests.

C. The rule of law is often attacked in a way that undermines democratic institutions and accountability mechanisms, and thereby disarms pro-democracy actors from the ability to counter attacks on civic space and the political playing field.

- ⇒ *Attacking the independence of the judiciary* is one of the primary strategies to undermine democratic institutions, often through the appointment and dismissal of judges in key positions, or pressure on independent institutions such as anti-corruption bodies.
- ⇒ *Impunity* for human rights violations and crimes against human rights defenders, journalists, civil society leaders and other public figures is often upheld both as a strategy and a symptom of a weak or partial judiciary.
- ⇒ *Failing to uphold the rule of law* has a major chilling effect on critical and dissenting voices' ability to speak out and hold the government accountable.

The case studies show that the attacks on civic space cannot be seen as separate from the way space for political contestation is being restricted. First of all, the three strategies are inherently interlinked. The extent of success of attacks on the rule of law conditions the ability of civil society to counter restrictive legislation, as well as the ability of political parties to challenge electoral reform. A closed down civic space likewise renders democratic elections meaningless and thereby contributes to an uneven political playing field.

Secondly, it is often the same actors who are closing civic space that are also undermining democratic institutions and changing the rules of the game in their favour. While the ruling party is often the main perpetrator of such autocratisation, the case studies illustrate the powerful role of criminal networks, business interests and even major opposition parties in breaking down democratic space. This is explored in further detail below.

Shrinking civic space cannot therefore be seen as separate from the wider trend of autocratisation occurring at a global and national level. Civic space, space for political contestation and the rule of law must be seen as different strategies to the same end: gradually silencing dissent and concentrating power in the hands of a few. The phenomenon of shrinking civic space is deeply embedded in a wider trend of regressing democratic space and authoritarian resurgence and must be responded to accordingly. A case can be made that in some circumstances it would be wise to frame the response as solely focused on civil space - however, this should be about framing as it would be exceedingly difficult to actually succeed in the response without considering the wider political sphere of broader contestation.

2. Shrinking space is non-linear, gradual and global

A. Multifaceted non-linear phenomenon

The case studies exemplify how different strategies are employed in varying combinations at different points in time. In Kenya, the main attack on democratic space is directed at civic freedoms, despite increasing efforts to create an uneven political playing field. In contrast, in Georgia civic space is relatively unrestricted while the main battle is over the constitution, with ruling parties trying to change the rules of the game in their favour. Relative improvements have been made in Indonesia when it comes to civic space, and yet a restrictive NGO-law was passed and efforts to tilt the political arena in favour of the incumbent continue. In El Salvador and Honduras, the failure to uphold the rule of law and the complete impunity greatly restricts civic space, while illicit financial flows and high entry barriers set the scene for an unrepresentative and exclusive space for contestation. In Guatemala, the political elite upholds the rules of the game so that contestation occurs outside the public realm and business elites dictate the government's agenda, while also attacking civil society. While the Zimbabwean judiciary still enjoys pockets of independence, Zimbabwean civil society have been under severe attacks through legislative, administrative and political means, and space for contestation is skewed in favour of the ruling party through extreme

levels of state capture. Finally, in Europe restrictions in civic space have become increasingly widespread, while some countries have also attacked the independence of the judiciary and spread polarising rhetoric to limit democratic space.

In addition, the case studies showed that closing space is different to different population groups. In particular, women, youth, or people belonging to minorities are disproportionately affected and targeted by attacks to close democratic space. People with vulnerabilities resulting from intersectionalities are even more at risk. This means that people who are already facing different barriers to participate in decision making are even more affected and further excluded when democratic space is being closed. This has important implications for how to best support these underrepresented groups in a closing space context.

Closing space is thus not a linear process, but a multi-layered non-sequential phenomenon affecting the whole political system. Progressive changes on one level can exist in parallel to regressive changes on another level, such as in the case of Georgia where improvements in the judiciary and the rule of law, go hand in hand with attacks on political contestation. There is no clear sequence in these different strategies, even though attacks on civic space have in many cases been a precursor to reforms that strip the judiciary of its independence, and constitutional or electoral reform that limits democratic contestation.

B. Gradual erosion through subtle attacks or a protection of the status quo

While the term shrinking space has come to embody pro-active attacks on civic space such as restrictive laws or disruptions of protests, democratic space is also being restricted through more subtle, invisible and long-term actions. Just like V-Dem has identified that autocratisation occurs in a very gradual manner, these case studies show that democratic space is being shrunk by a multitude of actions that are far more invisible, subtle and gradual at eroding the space for democratic contestation and decision-making. Authoritarian regimes learn and adapt to international trends and criticism, for instance by refraining from overt attacks on civil society and employing other, more subtle means to repress democratic actors.

Where in some cases one can witness an active closing of democratic space (as in Kenya, Honduras, Georgia and Indonesia), other cases are marked by a proactive protection of a restrictive status quo (Guatemala and El Salvador). In such cases, the prevention of change, rather than any visible enforcement of change, gradually contributes to a closing of democratic space.

Likewise, impunity has a major long-term impact on fundamental freedoms in practice, but it does not reach global attention without concerted civil society action on individual cases. Impunity has a chilling effect on civil society, media and political actors, inducing fear of stepping into the public and speaking out, be it against the government or criminal networks.

This is clearly demonstrated in the case studies of Guatemala and El Salvador, where there is far less coordinated civil society pushback in the form of advocacy, public litigation or petitions, for instance.

Instead, people resort to less conventional methods of dissent that provide much more anonymity, such as strikes and mass demonstrations.

While the protection of a restrictive status quo, and the gradual erosion of fundamental freedoms and democratic institutions are harder to detect and call out than a singular attack, they are incredibly harmful to democratic space in the long term.

Even in cases of clear attacks on democratic space, it is the sum of attacks over time that makes them so detrimental. The extension of the Foreign Agents law in Russia to also include journalists in 2019, after its initial adoption in 2012, serves as a powerful example here. Even though most European CSOs can operate in relative freedom as compared to some of the case studies under examination here, a survey of European CSOs showed that in early 2016, 58,7% of respondents considered conditions for their operations to be deteriorating.⁷⁴ The small restrictive actions that lead up to this do not make international news and are hard to monitor even for local civil society, but add up to a closing space.

C. Global phenomenon

While the repercussions of attacks on democratic space are felt within state boundaries, the phenomenon is global in nature. Across case studies, it is clear that different actors trying to restrict contestation learn from each other. The Russian NGO law labelling foreign-funded NGOs as a foreign agent has, for example, been replicated all over the world. In addition, international donors and autocratic global powers were seen to play a major role and exert substantial influence on national-level attacks and the mitigation thereof.

A major implication of this is that global coordination will be essential for countering such attacks. As detailed above, donors have decreased support for civil society and relegated more control to the government over the usage of development cooperation, thereby cutting off a vital lifeline for those on the frontline defending democratic space. Strong coordination on financial and political support to pro-democracy actors is critical for defending democratic space in partner countries, and at home.

3. Many actors are involved both in the closing and defending of democratic space, with a dual role for political parties

A. Ruling parties as the main but not only perpetrator of closing space

In most cases, the ruling party is the main perpetrator of shrinking democratic space, with nearly all cases exhibiting some degree of abuse of state resources and institutions by the incumbent. This is

⁷⁴ Civicus (2016): *Civil Society Reports show evidence of shrinking space in Europe*. Available [here](#).

in line with the findings from Lührmann and Lindberg (2019), who identified that over two thirds of the autocratisation episodes within the current wave of autocratisation are led by state actors who came to power legally and were mostly democratically elected.⁷⁵ While this is not new information, this poses a dilemma for donors. When is the legally elected government trespassing democratic norms? Donors continue to work with executive governments in their trade and development cooperation, including in decisions on their civil society support. As discussed above, this has led to a decrease in support to advocacy projects and generally went hand in hand with a reduction in funding for civil society. In the face of shrinking space, this is very counter-productive.

What is remarkable is that major opposition parties are at times also guilty of changing the rules of the game to restrict political contestation. Political parties' dual role in both actively restricting space for contestation and passively keeping in place an uneven playing field is striking, considering the incentives - at least for opposition parties - to maintain sufficient room for competition. The case studies blame a lack of internal democracy in political parties, the role of private and illicit funding in campaigns, and winner-takes-all-elections for this. In the face of political parties' often ambiguous role, citizens have resorted to alternative participation mechanisms in some of the cases under review, including social movements and civic assemblies.

Two other groups of actors actively shrinking democratic space are business elites and criminal networks. Through financial support to political parties, they skew the political playing field and undermine accountability and representation. Criminal networks present a particularly challenging threat to democratic space, as they generally foster impunity and undermine the judicial branch of government, which sets the scene for unconstitutional changes to the rules for political contestation and the exercise of civil liberties. Donors may, on the other hand, consider how to leverage their trade relations for fostering more transparency in businesses' role in financing and interfering with political processes.

B. Civil society, media and smaller opposition parties on the frontline

Interestingly, all cases show that restrictive measures were placed on civil society. This is not surprising, as all case studies are testament to the resilience and ingenuity of civil society in defending and expanding democratic space. In many cases, civil society was able to push back on shrinking strategies through advocacy, public litigation, demonstrations, and building strategic alliances. In other cases, civil society even gained ground by pushing for laws to improve media pluralism (Georgia) or provide budgetary support to human rights defenders (Honduras) for instance. More generally, civil society and journalists played an essential role in bringing to light cases of corruption and holding the government accountable for upholding the rule of law, especially in contexts of systematic impunity.

⁷⁵ Lindberg, A. & Lindberg, S. (2019): A third wave of autocratization is here: what is new about it? Available [here](#).

Civil society was much stronger in its defense of democratic space, however, when the judiciary was still capable of upholding constitutionalism. In the absence of an independent judiciary or a constitution that provides for a functional separation of powers, participatory mechanisms and strong guarantees to rights and freedoms, civil society groups have resorted to demonstrations rather than the courts. This highlights the importance of calling out and countering government actions that undermine the independence of the judiciary.

Civil society has had its allies in the defense of democratic space. Opposition parties have, in most cases, stood up for democratic space by countering legislative proposals and allying with civil society. Especially smaller political parties have played an important role in cases where larger opposition parties contributed to the closing of space. The case studies emphasised that the electoral system is a major determinant of whether and when political parties will protect democratic space. This is in line with the findings of Dodsworth and Cheeseman (2017), who sought to understand when Parliamentarians defend civic space against restrictive legislation with case studies from Kyrgyzstan and Kenya.⁷⁶

While the case studies did not focus on the role of media in defending democratic space, their function as a watchdog and amplifier of critical voices cannot be understated. As space for civil society has been restricted through the various strategies described above, many autocratising regimes are increasingly focusing their efforts on restricting media freedom.⁷⁷ As mentioned above, the Russian Foreign Agents law was initially adopted to restrict civil society, but recently adapted to also limit media freedom. The role of media in defending democratic space should be looked at further so as to identify entry points for supporting media in such situations.

These findings are in line with studies by ECDPM and Brechenmacher and Carothers. While they have also identified the multitude of actors involved in the closing and defense of democratic space, this study sheds a new light on the dual role of political parties. Some case studies even hinted that a different political party in power did not change much to the ongoing shrinking of space. For long-term change, working with political parties and changing incentive structures through electoral reform will be essential for defending democratic space. This study also further emphasises the role of businesses and criminal networks in closing space, pointing to the need for a multilevel whole-of-society approach in responding to the complex challenge.

⁷⁶ Dodsworth, S. & Cheeseman, N. 2017: *Defending democracy: when do parliaments protect political space?* Available [here](#).

⁷⁷ Repucci, S. 2019: *Freedom and the Media: a downward spiral*. Freedom House. Available [here](#).



5.

Recommendations

1. Broaden the understanding of and response to shrinking space

- Adopt a **clear framework for identifying the closing of space** that takes into consideration the non-linear and gradual nature of closing space and its effect on the political system. This requires looking beyond only civic actors to look at the space for contestation more generally.
- Apply this framework in a **context-specific manner**. This means that, if one particular population group is under attack, such as journalists or LGTBI activists, this requires a careful analysis to understand if this is part of a broader pattern of closing space. If this is the case, specific responses aiding these groups might not be sufficient, and a broader, more structural response would be needed.
- Use an index of **independent metrics that monitor political and civic space** in order to avoid providing large scale support to countries that undermine human rights, democracy and the rule of law. This includes countries with elected governments that only very gradually regress.

IDEAS FOR ACTION

- Develop and adopt an **analysis framework** (based on existing indices) for **defining and identifying closing space** as a reference point broadly across Commission services and DGs, as well as on the EUD level to assess a country's democratic space. This can form the basis of a comprehensive approach for countering and pre-empting closing space and supporting the development of an enabling environment.
- Provide a **joint training day for donors and policy-makers** on how to detect tactics for closing democratic space, to introduce a framework of analysis, and use good practices to show how to respond to regressions in a pro-active and effective manner.
- Encourage EU delegations and/or EUMS embassies to organise **workshops on detecting and responding to closing space with a broad range of in-country actors** from both civil and political society. This is relevant both in countries where space is closing, as well as countries where space for contestation is (still) relatively open.
- Pilot a **training programme for EUDs** in a limited number of countries where there is an opportunity to counter closing space or expand space. The training should focus on the analysis framework for identifying closing space and should stimulate out-of-the-box-thinking.

2. Respond with a multi-level whole-of-society approach

- Civil society needs **reliable, core long-term support**, particularly in engaging in grassroots outreach and involving citizens in their activities, especially when faced with targeted smear campaigns.
- **Political parties can play a key role in defending democratic space**, particularly when in opposition or outside parliament. Effective party regulation related to transparency, campaigning, and financing, as well as support to internal party democracy and smaller non-parliamentary political parties are of particular relevance in contexts of shrinking space.
- **Donors need to have clear positions on working with business** in the context of closing space as it is important to avoid working with businesses that may benefit from weaker transparency or widespread impunity.
- **Independent media** needs to be recognised as playing a vital role in responding to all three tactics, as well as in engaging with citizens. Evidence shows that it is necessary to explain the value of different interest groups to the general public in a much more systematic manner.
- The case studies show **that women and already disadvantaged groups, particularly indigenous peoples, suffer disproportionately** from measures to close democratic space. People with vulnerabilities resulting from intersectionalities are even more at risk. This should be considered in both policies and programming priorities.
- **Private companies** can play a detrimental role in the closing of democratic space and should be considered an essential part of the solution, through dialogue and strategic use of EU leverage in trade and business.

IDEAS FOR ACTION

- Identify entry points (or priority sectors) for donors in supporting an open political system through a **'political economic analysis' framework**. This will strengthen EU strategic interests through more effective EU action abroad and in Europe.
- **All key actors should be consulted and engaged with** when addressing or analysing the closing (or opening) of democratic space in a particular country. This **includes those actors who are not well represented at a national level** or have no presence in the capital but play an important role at the local level or in specific communities, like local authorities, local civil society, and people vulnerable due to intersectionalities. Involve diaspora civil society from repressive contexts in Europe too.
- Create a **dedicated team to support donors in organising multistakeholder consultations** to overcome the practical difficulties and time-consuming nature thereof. The team should also advise EUDs on how to exploit existing **flexible funding modalities** on a small local scale.
- **Develop guidelines on EUD engagement** with the full spectrum of political parties, in order to support EUDs in their engagement with key political actors. The dedicated facility may also support the creation of EUD networks with political representatives.
- **Mainstream joint political party and civil society consultations on democratic space**, in order to support cooperation between progressive forces in both groups of actors. Hold targeted meetings with all actors addressed in the recommendations in EU Election Observation.

3. Adapt donor support to the reality of gradual non-linear regression globally

- **Political tools and emergency funding** need to be combined with **long-term structural support** to civil society, parties and parliaments (in a non-partisan manner), and media who can monitor, identify and counter both blatant attacks and more subtle erosive actions.
- **Create incentives** for EU delegations and European embassies to conduct innovative pilot projects aimed at defending and expanding democratic space.
- **Develop flexible funding instruments** that allow for a rapid response to regressions or opportunities for opening democratic space. This includes acting on closing space at an early stage, using the plethora of political and financial tools.

IDEAS FOR ACTION

- **Ensure that geographically allocated funding reflects the recognition that civil society organisations and other independent oversight actors are integral to democratic politics.** Donors should consider a minimum percentage of funding for these groups under bilateral funds.
- **Earmark funding and develop programmes specifically for middle income countries (MICs)** where space for contestation is under threat but funding is often less easily available.
- In terms of incentives, **out-of-the-box thinking should be encouraged** given the complexity of the problem. Ideas for donors include: innovation bonuses for projects, human resource incentives for internal staff or additional support by dedicated experts under a facility.
- **Ensure a more robust use of the human rights clause in EU budget support contracts with partners.** As noted above, major funding should not be given directly to states that are undermining human rights, democracy and the rule of law.
- **Leverage EU trade and association agreements to open democratic space or counter repressive tactics.** This requires consistency in the application of conditionality of such agreements, guided by independent metrics of political and civic space.
- **Task the EU special representative on human rights and democracy with a periodic assessment of bilateral agreements between the EU and third countries** as well as **EU budget support programmes** to verify whether countries (still) live up to their obligations on international human rights conventions and identify cases where the EU can use its leverage to encourage an opening of democratic space.

4. Global coordination and political leadership for the EU

- **The EU has the potential to be a leader on defending democratic space globally.** The ability of the EU and EU Member States to harness this potential depends on their ability to overcome internal divisions and adopt a joint problem assessment and strategy.
- **The EU and European states should build strategic partnerships** with other international actors with the political will to defend democratic space.
- **The EU's efforts to strengthen European citizenship are intimately interlinked with the EU's efforts to strengthen active citizenship** in partner countries: both face similar challenges, and both require an enabling democratic environment with space for contestation. The EU should build those bridges and overcome the divide between internal and external action.

IDEAS FOR ACTION

- Create a **new international mechanism** that can be triggered by likeminded partners to convene emergency meetings upon **sudden deteriorations in democratic space**, as well as regular exchanges on gradual closing. This might require a pre-commitment to a shared understanding of democratic space and a common set of principles for an enabling environment.
- Alternatively, **repurpose existing international mechanisms** or **create an informal international coordination group of policy officers** aimed at coordination and information exchange.
- **Share stories of successful attempts to counter closing space**, both in public communication and in internal exchange platforms and workshops. Build on experience from civil society - inside and outside Europe - in bringing together a compendium of good practices and success stories.
- **Hold regular inter-service groups on closing space**, to strengthen internal learning and coordination within and between different European Commission services, agencies and DGs. This will facilitate learning about closing space tactics across geographic regions and support the sharing of successful attempts to create space. After an initial trial period, consider expanding these groups to policy officers working on democratic space from EU member states.
- **The EU and EU member states need to jointly make the case for democracy more clearly and persuasively** in their public communication. Such a **communication campaign** would need to be sustained over time, consistently drawing from changing experiences and cross the artificial divide between EU internal and external action.



6.

Annexes

Summaries of country case studies on shrinking democratic space

6.1 Kenya

In Kenya, the ruling party has primarily attacked civic space by employing legislative, political and administrative strategies. Legislative strategies have attempted to chip away at constitutional guarantees such as freedom of media and freedom of association, through the amendments to the Kenya Information Communications Act 2013 and the Amendment bill to Statute Law, which sought to restrict the functioning of NGOs by capping foreign funding to 15% of an organisation's total budget. Administrative strategies include the refusal to operationalise laws, the usage of old laws to harass CSOs and organisational restructuring to inhibit NGOs' capacity to hold the government accountable. Political strategies include the intimidation and usage of violence against CSOs and associations, violently dispersing protests, and the suspension of CSO activities for allegedly failing to comply with regulations. It also includes hiring bloggers to spread negative messages about CSOs and threatening to withhold advertising revenue from media houses.

Space for political contestation has so far not come under any serious threat from the state or any other actor in the political system. The closing of the space is, largely, a function of the party system characteristics that render it exclusive, unrepresentative and unaccountable to citizens. These party system characteristics include the leveraging of patronage powers of the presidency and abuse of incumbency by the ruling party; the opaque mobilisation and utilisation of resources by political parties; lack of internal party democracy; and mobilisation of support on the basis of ethnicity. They constitute the root causes of corruption and impunity, the instinct to limit contestation and the exclusion of marginalized groups.

In the face of these systemic factors limiting democratic space and proactive attacks on civic space, civil society, the judiciary and smaller political parties have been strong defenders of the rule of law and constitutionalism. Civil society has adopted multiple strategies to push back against the shrinking democratic space, including: mobilizing and networking; lobbying and advocacy; public litigation;

petitions; awareness creation; street protests and demonstrations; counter-propaganda; research and analysis; and training on personal and data security. Smaller political parties and opposition parties have used their position in multiparty dialogue mechanisms to defend democratic space.

6.2 El Salvador

El Salvador is the Latin American country with the least support for democracy with only 28% of the population in favour of democracy as a form of government. This indicator has plummeted since 2009, when 68% of the population supported this form of government. In terms of confidence in institutions, it is the country with the least confidence in political parties (6%) and the judiciary (14%) and the second least confidence in parliament (10%) in the whole of Latin America. At the basis of this are a number of problems.

The electoral system had been designed as a cartel to keep those who are part of it in competition and to keep outsiders away. Legal obstacles, such as the high electoral threshold that need to be met for legal recognition as a party, hinder access to competition and make it difficult for new independent parties and candidates to enter the realm of political power. In practice, the main barrier is the flow of campaign expenses in political life; an evident limit to any new party or non-party proposal that wants to make its way in a sphere whose rules of the game are not equitable. In addition to public party finance, illegal and legal private financing define representation and legislative decision-making. Votes are exchanged for social benefits, public jobs and cash. The Law on Political Parties is not enforced but systematically violated.

In addition to the creation of an uneven playing field by those in power, the total impunity in a context of extreme violence is an onslaught both on civic space and on the rule of law. Many journalists have been murdered with impunity, and a general environment of intimidation and violence further limit freedom of assembly, expression and press. There is a high media concentration and indirect coercion of media platforms by blocking and filtering content based on advertising guidelines. Human rights violations by the state have gone unpunished. Different powers and institutions with the power to control or monitor such cases, cover each other to evade responsibility. The judiciary has been largely controlled by the executive, as exemplified by the removal of constitution-protecting magistrates in the Constitutional Chamber of the Supreme Court.

In the face of the restriction of the democratic space, there has been some resistance from ad-hoc civil society coalitions, using unconventional forms of participation. Such collective action has primarily emerged around specific issues, such as harmful mining projects, water privatization and pension reforms, with varying degrees of success.

6.3 Indonesia

Many have praised Indonesia for the progress made in its first decade of democratic development after the 1998 reforms. But since the 2014 Presidential Election it has become increasingly clear that Indonesia's democratic institutions have inherited corrupt and authoritarian actors and practices from the old, highly centralised state apparatus, including widespread corruption and a party system driven by private economic interests. The key role of money in politics has led to the commercialisation of political parties, who now act and function largely like corporations.

Against this backdrop, political parties in Indonesia eventually became a major factor behind the shrinking democratic space in the country, by creating an uneven political playing field between small and big political parties, young and old politicians, and between men and women. They have done so by tightening the requirements for party registration, increasing the electoral threshold, and at the same time passing regulations that make illicit party finance more difficult to detect. In addition, laws such as the state secrecy bill and the bill to end direct local elections have also restricted space for political contestation, thereby limiting avenues for democratic participation and accountability.

Indonesia stands out in the region for its vibrant civil society and diverse and critical press landscape. While major gains have indeed been made in terms of fundamental freedoms in Indonesia, civic space has also come under attack from the government through political, administrative and legislative strategies in recent years. Some of these strategies include the criminalization, intimidation and stigmatisation of civil society activists through laws, propaganda and intimidation, as well as complicated regulations for CSOs operations such as registration, licensing, reporting and accounting obligations. Press freedom has also been restricted through licensing rules, censorship and self-censorship through laws on blasphemous content. While the constitution guarantees civic and political rights for all, in practice minority groups such as religious minorities, atheists, LGBT groups and supporters of Papuan independence do not enjoy these freedoms.

Overall, the primary strategy to restrict democratic space has been the creation of an unlevel playing field, followed by a secondary strategy of attacks on civic space. While impunity reigns regarding human rights violations in East Timor and the killing of HRDs, the rule of law and separation of powers have not been under attack by the government. Finally, the dwindling donor funds and shifting priorities of Western donors have not helped in the efforts of civil society to hold political parties and the ruling party to account.

6.4 Georgia

In Georgia, civic space has been mostly unrestricted, but Russian soft power, polarisation and the abuse of power by ruling parties pose serious threats to space for inclusive participation and contestation.

A factor that conditions the uneven political playing field is the electoral system, enshrined in the Constitution, which creates such high barriers to participation that only the ruling party has sufficient resources to compete at the expense of smaller parties. There are no legal hurdles that hinder the parties' free functioning, but the current electoral system tends to produce supermajorities and entrenches a dominant power position of the incumbent. The Georgian Constitution has been amended 33 times since 1995, but it has been consistent in disfavoring smaller parties and helping the parties in power. Such an uneven playing field has limited fair competition and inhibited the development of viable and strong political parties with a policy-making and representative capacity. The ruling party also restricts the options for opening up the space for contestation through its hold on the weak legislative and judicial branches of government. Ruling parties have traditionally abstained from carrying out sweeping judicial reforms that would make the courts genuinely independent, which has a very palpable direct impact on political parties. The absence of a credible neutral arbiter complicates sustainable resolution of cases involving parties. Such cases range from financial sanctions linked to donation caps to adjudicating instances of physical violence on the campaign trail. The former being important to ensuring an even playing field and the latter affecting perceptions of safety among various party supporters.

The main actor that is fueling the reversal of democratic processes is undoubtedly Russia, which aims at re-establishing a strong Russian sphere of influence. It does so by strengthening Georgian political movements and parties that espouse ideas of religious and national purity with financial support, and by promoting anti-democratic ideas, in addition to increased military threats. Russian narratives thereby use the challenges to democracy in the West and in the region to further discredit democracy as an appropriate form of governance in Georgia.

On the other hand, the international community has very real leverage to promote a democratic agenda too. The positions of the Venice Commission have been particularly powerful in discouraging undemocratic changes to electoral laws, just like the EU's visa waiver and Association Agreement have been successful in incentivising positive reforms. Civil society groups have also been critical in performing a watchdog role and pushing for democratic reforms, greatly supported by a strong pluralistic media landscape.

6.5 Honduras

The structural weakness of the judiciary and the rule of law have created an environment in Honduras that allows both for the proactive closing of democratic space by the ruling party and for criminal groups to go unchecked. Ruling parties have, in Honduras, abused state resources and power to further weaken the judiciary, through intimidation and the appointment and dismissal of judges in the Supreme Court. The strategy targeted at the rule of law has gone hand in hand with the abuse of state resources for campaigns and the control of the electoral body.

The electoral threshold in combination with the high financial cost of campaigning creates a very exclusive and unequal space for competition. While the electoral code prohibits certain types of vote buying, there is no criminal or civil liability for violating the electoral code. Ruling parties have kept this system in place and maintained a weak and politicised Supreme Court, maintaining the uneven political playing field.

While one cannot speak of a coordinated attack against civic space or space for competition, an environment of extreme violence and criminality conditions all political participation and exercise of fundamental freedoms. Violent crime restricts civic space through self-censorship in a climate of risk and threats. There are plenty of cases of murdered journalists, human rights defenders and activists, of which the large majority of crimes remain in impunity.

Direct electoral violence against candidates, activists and political parties is also rife around electoral times. Criminal groups have penetrated political elites, which distorts electoral competition, destroys the rule of law and greatly harms the representativeness of and trust in political parties. It would be impossible for organised crime, corruption and impunity to grow so much without some key alliances between political and economic elites.

Citizens and civil society have successfully countered democratic setbacks, including through by lobbying for a coalition demanding a Law on Transparency and Access to Public Information, demands for budgetary support to Human Rights Defenders, and the installation of the Mission to Support against Corruption and Impunity of the United Nations. This has resulted in some hopes that democratic space may be opening up again.

6.6 Guatemala

In Guatemala, a powerful elite works together so as to maintain the status quo of limited space for participation, contestation and dissent. The state together with a network of political and business actors drives the efforts to close democratic space, by creating and maintaining an uneven playing field, attacking civil society space and protecting the unchecked powers of Congress. Electoral and party legislation creates an uneven playing field through high barriers to entry, combined with minimal operating requirements and private and unchecked funding for parties.

This leads to a complete lack of representation and inclusiveness, where politics is reserved for the rich and parties serve as a temporary vehicle to attain elected office. When the winners are in power, they have no loyalty whatsoever to the party neither to their electorate, and will do anything to keep the deeply flawed system that got them elected in place, so as to ensure future wins.

Even though elections have been organised and conducted in a relatively transparent manner, there is no electoral accountability at all, as congress is elected by means of closed lists controlled by parties. Congressmen lead the efforts to restrict civic space, through laws that restrict civil society's ability to operate, amongst others with control mechanisms requiring unnecessary permits and approval for projects. The business and criminal elite has also coopted several judicial bodies in order to protect corrupt networks and ensure impunity.

In response to corruption scandals and restrictive actions by the government, coalitions of citizens, media, NGOs and civil society groups have been relatively successful in mobilising people in strikes and countering such attacks. However, overall there is very little trust in democratic institutions, as evidenced by the low voter turnout in the 2019 elections.

6.7 Zimbabwe

While the removal from power of long-standing President Robert Mugabe created hopes for an opening of democratic space, the dynamics of restricting space for contestation have not fundamentally changed. As Zimbabwe has veered between various forms of authoritarian rule since independence, civil society has almost always operated under restrictions in exercising their fundamental freedoms, with waves of repression (2008, 2018-2019) and periods of relative opening (2000, 2018). While overall the general environment for civil society and the opposition is less repressive than it was around 2008, with fewer arrests and less use of repressive legislation, the current regime has fallen back into authoritarian patterns of repression at certain occasions, most notably during post-election protests in August 2018 and during protests in January 2019.

In the early 2000s, Zimbabwe adopted a series of laws to limit civic space: a law imposing excessive burdens and restrictions on NGOs (the Private Voluntary Organisations Act); a law limiting freedom of press and media (the Access to Information and Protection of Privacy Act); and a law used to restrict freedom of assembly (the Public Order and Security Act). These laws were later amended to include more categories of actors and types of activities and applied both by the Mugabe regime and in the post-Mugabe era. The Public Order and Security Act was, for instance, used by the military in August 2018, when the army fatally shot protestors demonstrating against irregularities in the electoral process. Existing laws such as a rural by-law have also been used to target specific people, including human rights defenders. Violence has also been used against civil society, protestors, opposition figures and media actors, with a major chilling effect on dissenting voices. For instance,

the abduction and disappearance of journalist Itai Dzamara in 2015 was more than a singular case, as it sent a strong signal to other journalists and activists.

While Zimbabwe does not formally suffer from high barriers to political participation, in practice only the ruling party and the main opposition party matter in elections. Over 100 political parties competed in the 2018 elections, with very few participation requirements. However, most of the key electoral reforms set out in the new constitution have yet to be adopted in a reform of electoral and party law. This is actively countered by the ruling party, who benefit from the old legislative framework, including for instance the functioning of the Zimbabwe Electoral Commission and electoral rules. A major determining factor is the extraordinary level of state capture. The ruling party abused state resources through the politicisation of food aid, vote buying, millions of euros of domestic debt, and intimidation. This makes the opposition parties - particularly the major opposition party - heavily reliant on those individuals funding the party. Such an imbalance in resources contributes to an unlevel playing field, and the weaker structures and capacity of opposition parties.

A more ambiguous tactic for closing democratic space is the undermining of the rule of law. Interestingly, there are unexpected bouts of independence in the judiciary in Zimbabwe. Specific judges have at times unexpectedly upheld constitutionalism and fundamental freedoms, for instance in the recent case of the Vice President's divorce. However, political mingling can lead to changes in judges, which eventually lead to partial judgements. Likewise, important cases such as those related to electoral results end up in the hands of pro-government judges. The ruling party also actively lengthens procedures in court cases against activists for as long as possible. For instance, following public protests in January 2019, a large number of civil society and opposition activists were charged with subversion of the government or treason, which carries a sentence of 20 years in jail. Most of these activists are not convicted, but the lengthy and burdensome process is used to repress activists and instill fear. The military, on the other hand, goes unpunished for human rights abuses in the repression of protests.

6.8 Europe

While in Europe, overall levels of democratic space have been higher than in other regions in the world, many countries have seen severe regressions in similar ways as witnessed in the case studies above. This is not only limited to younger democracies in Europe, but also older established democracies like France.

The clearest pronouncements of closing democratic space have been restrictions on civic space and pressure on the independence of the judiciary. Restrictions on civil society organisations through NGO laws and the politicised usage of tax provisions and administrative regulations have restricted freedom of assembly. In Germany, this resulted in certain NGOs losing their recognition as an NGO, and in France the state of emergency regarding the terrorist attacks in 2015 was used to prohibit climate protests. Academic freedom and media pluralism have been a target in Hungary, while in

Poland LGBTQI people have suffered from increased physical and verbal attacks, including with ‘LGBTI free zones’ in an increasing number of municipalities. More widely, smear campaigns have served to delegitimise civil society organisations across Europe. The anti-Soros campaign in Hungary is the most obvious example, however, the narrative on civil society is also being reshaped on an EU level, with several MEPs questioning the integrity and legitimacy of CSOs in the European Parliament.

The independence of the judiciary has been most at risk in Europe, with legislation that compromises the separation of powers in Hungary and Poland. In both cases, the appointment procedures of judges and budget decisions were used as a tactic to undermine the independence of the judiciary, and thereby close democratic space.⁷⁸ The EU is investigating breaches of the rule of law in both countries, with Hungary withdrawing the law in response to EU pressure.

The political playing field has thus far not been subject to major restrictions to democratic space in Europe, with the exception of Hungary. The 2018 elections in Hungary saw restricted freedom of media and association, an abuse of state resources by the ruling party, opaque campaign financing, media bias, and xenophobic and intimidating rhetoric.⁷⁹ More generally in Europe, a worrying trend is that restrictions in democratic space are implemented by democratically elected governments, using their democratic mandate to undermine democratic institutions, thereby ensuring their own re-election and limiting space for contestation.

⁷⁸ Human Rights Watch (2018): Hungary’s latest assault on the judiciary. Available [here](#).

Netherlands Helsinki Committee (2019): The Struggle for the Rule of Law in Poland Continues. Available [here](#).

⁷⁹ Office for Democratic Institutions and Human Rights (2018): Hungary Parliamentary Elections 8 April 2018: ODIHR Limited Election Observation Mission Final report. Available [here](#).

European Partnership for Democracy

The European Partnership for Democracy (EPD) is a non-profit organisation supporting the development of democracy worldwide. As a network of European civil and political society organisations, EPD advocates for a stronger presence of democracy support on the EU's agenda and facilitates the exchange of knowledge among practitioners. Throughout its work, EPD also seeks to contribute to the effectiveness and the quality of the programming and implementation cycles of democracy support at the EU level.

Netherlands Institute for Multiparty Democracy

The Netherlands Institute for Multiparty Democracy (NIMD) assists political parties in new and emerging democracies. The organisation's approach is characterized by facilitating dialogue. NIMD provides safe environments for political parties in a country to meet, overcome distrust and work together on political issues. In addition, NIMD also works directly with parties to strengthen their capacities through educational programs for aspiring politicians. NIMD works in more than 20 countries in Africa, Latin America, Middles East, Asia and Eastern Europe.